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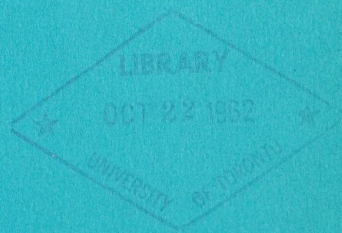
MONTHLY REPORT

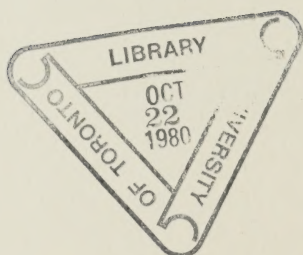
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JULY 1962

ONTARIO LABOUR RELATIONS BOARD





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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD DURING JULY 1962

Bargaining Agents Certified During July
No Vote Conducted

2102-61-R: United Steelworkers of America (Applicant) v.
Furniture Hardware Limited (Respondent).

Unit: "all employees of the respondent on Ingram Drive in Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office and sales staff."
(26 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

The Board endorsed the Record as follows:

"For the reasons given in writing
a certificate will issue."

Board Member C.C. Young, while not dissenting, said:

"For the reasons given in writing,
I would have directed that a representation
vote be taken in this case."

On January 9, 1962, Board Member E. Boyer dissented as to the exclusion of one named person from the bargaining unit.

2829-61-R: The National Union of Public Service Employees
(Applicant) v. The North Bay Civic Hospital (Respondent).

Unit: "all employees of the respondent at its Hospital at North Bay, save and except professional medical staff, graduate nursing staff, undergraduate nurses, graduate pharmacists, undergraduate pharmacists, graduate dietitians, student dietitians, technical personnel, supervisors, foremen, persons above the rank of supervisor or foreman, chief engineer, stationary engineers and their helpers employed in the boiler room of the respondent, office staff and persons regularly employed for not more than 24 hours per week." (76 employees in the unit).

The Board endorsed the Record in part as follows:

"For the purposes of clarity, the Board declares that the term technical personnel comprises physiotherapists, occupational therapists, psychologists, electro-encephalographists, electrical shock therapists, laboratory, radiological, pathological and cardiological technicians.

For the purposes of clarity, the Board declares that the bargaining unit includes certified nursing assistants."

3422-62-R: Retail Clerks International Association (Applicant) v. Central Super Markets Limited (I.G.A. Stores, Greater Ottawa District) (Respondent).

Unit: "all employees of the respondent employed for not more than 24 hours per week and students hired for the school vacation in the greater Ottawa District."
(68 employees in the unit).

3510-62-R: Retail Clerks International Association (Applicant) v. Central Super Markets Limited (Respondent).

Unit: "all employees of the respondent in Hawkesbury, save and except store managers, persons above the rank of store manager, office staff, persons employed for not more than 24 hours per week, and students hired for the school vacation period." (22 employees in the unit).

3511-62-R: Retail Clerks International Association (Applicant) v. Central Super Markets Limited (Respondent).

Unit: "all employees of the respondent in Hawkesbury, employed for not more than 24 hours per week and students hired for the school vacation period."
(7 employees in the unit).

3524-62-R: International Hod Carriers' Building & Common Labourers' Union of America, Local No. 1059 (Applicant) v. Schell Industries Limited Erection Division (Respondent).

Unit: "all erection labourers employed at or working out of Woodstock on construction projects, save and except foremen, persons above the rank of foreman and cement finishers." (21 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

3671-62-R: Building Service Employees' International Union Local 264 (Applicant) v. The Salvation Army Eventide Home (Respondent).

Unit: "all employees of the respondent at Niagara Falls, save and except supervisors, persons above the rank of supervisor, office staff, persons regularly employed for not more than 24 hours per week and employees under the custody of the Salvation Army for the purpose of rehabilitation." (16 employees in the unit)

On May 25th, 1962 the Board endorsed the Record in part as follows:

"The Board further declares that the persons classified by the respondent as nurse and chief engineer are employees of the respondent included in the bargaining unit."

3730-62-R: Brotherhood of Painters, Decorators and Paper-hangers of America, Local 114 (Applicant) v. McNulty's Steeplejacks (Respondent).

Unit: "all painters and painters' apprentices of the respondent on its International Bridge Project at Cornwall, save and except non-working foremen and persons above the rank of non-working foreman." (10 employees in the unit).

3797-62-R: International Hod Carriers' Building and Common Laborers' Union of America, Local 837 (Applicant) v. Forrest City Tile and Terraza (Counties of Lincoln, Welland and Haldimand) (Respondent).

Unit: "all construction labourers of the respondent employed in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (5 employees in the unit).

3799-62-R: Hotel and Restaurant Employees Union, Local 743, affiliated with Hotel and Restaurant Employees & Bartenders I.U., AFL-CIO, Canadian Labour Congress & Windsor & District Labour Council (Applicant) v. Mrs. Helen V. Harrison (Walkerville) (Respondent).

Unit: "all employees of the respondent employed in the cafeterias at Hiram Walker & Sons Limited at Walkerville, save and except assistant manageress, persons above the rank of assistant manageress and persons regularly employed for not more than 24 hours per week." (10 employees in the unit).

3855-62-R: National Union of Public Service Employees (Applicant) v. Sault Ste. Marie Separate School Board (Respondent).

Unit: "all employees of the respondent, save and except the business administrator, teaching staff, office staff and persons regularly employed for not more than 24 hours per week." (14 employees in the unit).

3879-62-R: Building Service Employees' International Union Local 204 (Applicant) v. Modern Building Cleaning Service of Canada Limited (Respondent).

Unit: "all employees of the respondent at the C.I.L. Building at 130 Bloor Street West, Toronto, save and except foremen and foreladies, persons above the rank of foreman and forelady and persons regularly employed for not more than 24 hours per week." (15 employees in the unit).

3881-62-R: United Brotherhood of Carpenters and Joiners of America, Local 2486 (Applicant) v. Nick D'Amato (Respondent).

Unit: "all carpenters and carpenters' apprentices employed by the respondent on its apartment block project on Highway 69 South at Sudbury, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

3890-62-R: United Rubber, Cork, Linoleum & Plastic Workers of America (Applicant) v. United Tire Sales (Respondent).

Unit: "all employees of the respondent at its factory at 33 Tippet Road, in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office and sales staff." (43 employees in the unit).

3920-62-R: Retail Clerks International Association (Applicant) v. Michael Abraham (Respondent).

Unit: "all employees of the respondent at Ottawa, save and except the store manager and persons above the rank of store manager." (6 employees in the unit).

3921-62-R: Busy B Discount Foods Limited (Stoney Creek, Ontario) Employees Association (Applicant) v. Busy B Discount Foods Limited (Respondent) v. Food Handlers' Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of N.A., (Intervener).

Unit: "all employees of the respondent working in or out of its premises at Stoney Creek, save and except meat department employees, foremen, persons above the rank of foreman, persons regularly employed for not more than 24 hours per week and students employed in off school hours and during school vacation." (23 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

3981-62-R: International Hod Carriers' Building and Common Laborers' Union of America, Local 837 (Applicant) v. C. Dick Construction & Engineering, Company Limited. (Counties of Lincoln, Welland and Haldimand) (Respondent).

Unit: "all construction labourers of the respondent employed in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (23 employees in the unit).

3986-62-R: National Union of Public Employees (Applicant) v. The Corporation of the County of Essex (Respondent).

Unit: "all employees of the respondent at its Sun Parlour Home for Senior Citizens at Leamington, save and except department heads, persons above the rank of department head, office staff and registered nurses."
(40 employees in the unit).

The Board endorsed the Record as follows:

"The Board finds that the respondent is a municipality as defined in the Department of Municipal Affairs Act and that it has repealed its by-law which it had previously enacted wherein it declared pursuant to the provisions of section 89 of The Labour Relations Act that The Labour Relations Act shall not apply to it in its relations to its employees or any of them."

3988-62-R: United Steelworkers of America (Applicant) v. Algoma Tire and Rubber Services Limited (Improvement District of Elliot Lake) (Respondent).

Unit: "all employees of the respondent in the Improvement District of Elliot Lake, save and except foremen, persons above the rank of foreman, office staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period."
(11 employees in the unit).

The Board endorsed the Record in part as follows:

"The Board notes the agreement of the parties that the person classified as clerk employed by the respondent is not included in the bargaining unit."

3989-62-R: The Hotel & Club Employees Union Local 299 (Applicant) v. La Cav-A Bab Limited (Respondent).

Unit: "all employees of the respondent at Toronto, save and except assistant manager, persons above the rank of assistant manager and office staff." (33 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

4016-62-R: International Union of Operating Engineers, Local 793 (Applicant) v. Anthony DeRose Limited (Respondent).

Unit: "all employees of the respondent employed in the Counties of Lincoln, Welland and Haldimand engaged in the operation of shovels, bulldozers and similar equipment and those persons primarily engaged in the repairing and maintaining of same save and except non-working foremen and persons above the rank of non-working foreman."
(8 employees in the unit).

4020-62-R: Textile Workers Union of America, CLC,
(Applicant) v. Dominion Silk Mills Limited (Fabricushon Division) (Respondent).

Unit: "all employees of the respondent at its premises at 19 Ingram Drive, in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, laboratory employees, office and clerical staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period."
(11 employees in the unit).

4038-62-R: United Brotherhood of Carpenters and Joiners of America, Local 2486 (Carpenters Section) Sudbury Building and Construction Trades Council (Applicant) v. C.A. Pitts General Contractor Limited (Respondent).

Unit: "all carpenters and carpenters apprentices of the respondent employed on the Jones & Laughlin Steel Corp. project at Adams Mine near Kirkland Lake, save and except non-working foremen and persons above the rank of non-working foreman." (7 employees in the unit).

4059-62-R: The National Union of Public Service Employees (Applicant) v. The Cassellholme for The Aged, North Bay, Ontario (Respondent).

Unit: "all employees of the respondent at North Bay, save and except professional medical staff, department heads, persons above the rank of department heads, registered nurses, office staff and persons regularly employed for not more than 24 hours per week." (45 employees in the unit).

4061-62-R: Printing Specialties & Paper Products Union, Local 540 (Applicant) v. Pakfold Continuous Forms Limited (Respondent).

Unit: "all employees of the respondent in Stamford Township, save and except foremen and foreladies, persons above the rank of foreman or forelady and office and sales staff."
(24 employees in the unit).

4070-62-R: Brotherhood of Painters, Decorators and Paper-hangers of America, Local Union 1630 (Applicant) v. Macey Neon Signs Limited (Respondent).

Unit: "all employees of the respondent in the Township of Toronto, save and except supervisors, persons above the rank of supervisor and office staff."
(23 employees in the unit).

4073-62-R: International Hod Carriers' Building and Common Laborers' Union of America, Local 837 (Applicant) v. Covello Bros. (Respondent) v. General Truck Drivers' Union, Local 879, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Intervener).

Unit: "all construction labourers in the employ of the respondent employed in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen, persons above the rank of non-working foreman and persons covered by subsisting collective agreements."
(13 employees in the unit).

4074-62-R: International Hod Carriers' Building and Common Laborers' Union of America, Local 837 (Applicant) v. C.H. Baum and Son Limited (Respondent).

Unit: "all construction labourers of the respondent employed in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (5 employees in the unit).

4086-62-R: Amalgamated Clothing Workers of America (Applicant) v. Vanguard Glove (Respondent).

Unit: "all employees of the respondent at Cornwall, save and except foremen, foreladies, assistant-foremen, assistant foreladies, persons above the ranks of assistant-foreman and forelady, office and sales staff."
(10 employees in the unit).

4089-62-R: International Brotherhood of Electrical Workers, Local Union 1687 (Applicant) v. J. McLeod and Sons Ltd. (Respondent).

Unit: "all journeymen electricians and their apprentices of the respondent employed at and out of Sault Ste. Marie, save and except non-working foremen and persons above the rank of non-working foreman." (9 employees in the unit).

4091-62-R: Upholsterers' International Union of N.A. Local #602 (Applicant) v. Heeshade Company Limited (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office staff." (17 employees in the unit).

4103-62-R: International Hod Carriers' Building and Common Labourers Union of America, Local #597 (Applicant) v. Ball Brothers Limited (Respondent).

Unit: "all construction labourers of the respondent at Cobourg, save and except non-working foremen and persons above the rank of non-working foreman." (22 employees in the unit).

4104-62-R: Bakery & Confectionery Workers' International Union of America, Local 264 (Applicant) v. Taylor Automatic Beverages Ltd. (Respondent).

Unit: "all employees of the respondent employed at or working out of its premises in Scarborough, save and except foremen and foreladies, persons above the rank of foreman and forelady and office staff." (22 employees in the unit).

4107-62-R: The United Steelworkers of America (Applicant) v. Samuel, Son and Co. Limited (Respondent).

Unit: "all employees of the respondent in the Township of Toronto, save and except foremen, persons above the rank of foreman, office and sales staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period."

(UNIT AGREED TO BY THE PARTIES)

4125-62-R: Retail, Wholesale and Department Store Union, AFL:CIO:CLC (Applicant) v. Toll House Catering Ltd. (Metropolitan Toronto) (Respondent).

Unit: "all driver salesmen of the respondent in Metropolitan Toronto, save and except supervisor and persons above the rank of supervisor." (6 employees in the unit).

Certified Subsequent to Pre-Hearing Vote

3875-62-R: The Canadian Union of Operating Engineers (Applicant) v. The Board of Governors, Metropolitan General Hospital (Respondent) v. Local 944, International Union of Operating Engineers (Intervener).

Unit: "all stationary engineers, firemen, apprentices and helpers employed by the respondent in its power house at Windsor, save and except the assistant chief engineer and persons above the rank of assistant chief engineer."
(9 employees in the unit).

Number of names on eligibility list		9
Number of ballots cast	9	
Number of ballots marked in favour of applicant	5	
Number of ballots marked in favour of intervener	4	

[The intervener alleged that the applicant engaged in electioneering during the prohibited period. The Board, in an oral decision at the hearing found that the intervener failed to adduce evidence to support its allegation.]

4035-62-R: International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) (Applicant) v. Algoma Manufacturing Tool & Die Ltd. (Respondent).

Unit: "all employees of the respondent at Oshawa, save and except foremen, persons above the rank of foreman and office staff." (14 employees in the unit).

Number of names on revised eligibility list		12
Number of ballots cast	12	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	10	
Number of ballots marked as opposed to applicant	1	

Certified Subsequent to Post-Hearing Vote

3657-62-R: Amalgamated Clothing Workers of America (Applicant) v. Nash Pant Company Limited (Respondent).

Unit: "all employees of the respondent in Toronto, save and except foremen and foreladies, persons above the rank of foreman or forelady and office and sales staff."
(33 employees in the unit).

Number of names on revised eligibility list		28
Number of ballots cast	28	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	19	
Number of ballots marked as opposed to applicant	8	

BALLOTS NOT COUNTED

3307-62-R: Retail, Wholesale and Department Store Union (Applicant) v. Ridge Dairy Limited (Respondent).

Unit: "all employees of the respondent at Ridgeway, save and except foremen, route supervisors, persons above the rank of foreman and route supervisor and office staff." (17 employees in the unit).

Number of names on revised eligibility list	19
Number of ballots cast	19

VOTE BALLOTS NOT COUNTED

3365-61-R: National Association of Marine Engineers of Canada (Applicant) v. Municipality of Metropolitan Toronto (Marine Engineers, Toronto Harbour and Vicinity) (Respondent) v. Toronto Civic Employees' Union Local 43 (Intervener).

Unit: "all marine engineers employed by the respondent on temporary vessels in the Toronto Harbour and vicinity." (5 employees in the unit).

The applicant requested that a pre-hearing representation vote be taken in a unit of all marine engineers employed by the respondent.

The intervener submitted that there was an agreement in force between the intervener and the respondent covering some of the employees in the unit claimed as appropriate by the applicant.

A Pre-hearing vote was held and the ballots were not counted.

Subsequently the Board heard the application and endorsed the Record in part as follows:

"The respondent and the intervener are parties to a collective agreement, clause 32 of which reads as follows:

That notwithstanding anything herein contained to the contrary, the bargaining unit as defined in sub-clause (a) of Clause 1 hereof shall be deemed not to include employees in "The Temporary Service" class of employees of the Metropolitan Corporation who are members of another union by reason of their being craft tradesmen.

Having regard to the evidence before the Board and specifically to the provisions of clause 32 as set out above and to the fact that the marine engineers on temporary service with the respondent are craft tradesmen, the Board finds that the marine engineers on temporary service with the respondent are not covered by the collective agreement between the respondent and the intervener.

...The Board finds that the permanent marine engineers employed by the respondent are covered by a collective agreement between the respondent and the intervener and pursuant to the discretion vested in the Board under section 6(2) of The Labour Relations Act, the Board finds that the permanent marine engineers in the employ of the respondent are not appropriate for inclusion in the bargaining unit in this case."

The Board granted certification to the applicant for the above unit.

Number of names on revised	
eligibility list	9
Number of ballots cast	9

Applications for Certification Dismissed No Vote Conducted

3802-62-R: The Canadian Union of Operating Engineers (Applicant) v. B.F. Goodrich Canada Ltd. (boiler room at its plant at King Street and Victoria Avenue, Kitchener) (Respondent) v. United Rubber, Cork, Linoleum and Plastic Workers of America, Local 73 (Intervener). (9 employees).

(SEE INDEXED ENDORSEMENT PAGE 133)

3943-62-R: Retail, Wholesale and Department Store Union (Applicant) v. Beaton Dairy Ltd. (Oshawa) (Respondent). (23 employees).

4065-62-R: Ross Wemp Motors Employees Association (Applicant) v. Ross Wemp Motors Limited (Respondent). (39 employees).

The Board endorsed the Record as follows:

"In this case the applicant failed to file any evidence of membership in the applicant signed by employees in the proposed bargaining unit.

For the reasons given orally at the hearing this application is dismissed."

4069-62-R: The National Union of Public Employees
(Applicant) v. Belleville Public School Board (Belleville)
(Respondent).

The Board endorsed the Record as follows:

"The Board finds that the respondent is a municipality as defined in the provisions of The Municipal Affairs Act and that it has declared pursuant to the provisions of Section 89 of The Labour Relations Act that The Labour Relations Act shall not apply to it in its relations with its employees or any of them.

In view of the action of the respondent in making such a decision, the Board has no jurisdiction to process this application further and the application is accordingly terminated."

4092-62-R: International Association of Bridge, Structural & Ornamental Iron Workers, Local 759 (Applicant) v. Standard Prestressed Structures (District of Rainy River) (Respondent). (12 employees).

The Board endorsed the Record as follows:

"The applicant having failed to file a declaration concerning membership documents in form 9 of the Board's Rules of Procedure in accordance with the provisions of section 6 of the Board's Rules of Procedure, this application is dismissed."

4148-62-R: The United Brotherhood of Carpenters and Joiners of America Local 2307 (Applicant) v. J.F. Guay Contractor (project, Cornwall Classical College Belmont Street South Cornwall) (Respondent). (4 employees).

The Board endorsed the Record as follows:

"The applicant having failed to appear at the hearing in this application, this application is dismissed."

Certification Dismissed Subsequent to Pre-Hearing Vote

3892-62-R: Canadian Union of Operating Engineers
(Applicant) v. McMaster University (Respondent) v. International Union of Operating Engineers, Local 700
(Intervener).

Voting Constituency: "all stationary engineers and persons primarily employed as their helpers in the power house of the employer at Hamilton, save and except the chief engineer." (4 employees).

Number of names on eligibility list		4
Number of ballots cast		4
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	1	
Number of ballots marked in favour of intervener	2	

4002-62-R: Canadian Union of Operating Engineers (Applicant) v. Burns and Co. (Eastern) Ltd. (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener).

Voting Constituency: "all the stationary engineers, save and except the chief engineer, employed as such on a regular full-time basis in the plant of the respondent at Kitchener." (9 employees in the constituency).

Number of names on revised eligibility list		8
Number of ballots cast		8
Number of ballots marked in favour of applicant	3	
Number of ballots marked in favour of intervener	5	

Certification Dismissed Subsequent to Post-Hearing Vote

1147-61-R: District 50, United Mine Workers of America (Applicant) v. Federal Equipment of Canada Ltd. (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office staff, pilots and aircraft mechanics." (32 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 131)

Number of names on revised eligibility list		30
Number of ballots cast		30
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	14	
Number of ballots marked as opposed to applicant	15	

2536-61-R: International Woodworkers of America (Applicant)
v. Hunter Veneers Limited (Respondent) v. Hunter Veneer
Shop Union (Intervener).

Unit: "all employees of the respondent at Tweed, save and
except foremen, persons above the rank of foreman and
office staff." (51 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

On June 15, 1962 the Board endorsed the Record in part as
follows:

"The Board finds that the intervener
had no constitution in existence at the date of the
filing of its intervention and that it was therefore
not a trade union for the purposes of The Labour
Relations Act at that time. (See the decision of
the Board in the Drummond Transit Company Case, File
No. 16978-58; February, 1959 Monthly Report, p. 31).
Accordingly, in view of the provisions of section 1
(1) (c) of The Labour Relations Act, the agreement
between the intervener and the respondent, signed
January 28th, 1960, is not a collective agreement
within the meaning of the Act and does not constitute
a bar to the present application.

On July 23rd, 1953 the Board certified
United Brotherhood of Carpenters & Joiners, of
America (Veneer Workers) Local Union 2904 as the
bargaining agent of the employees affected by this
application. On December 26th, 1953, on an appli-
cation for conciliation services, the Board was
advised that this union had concluded an agreement
with the respondent. Although the Registrar served
notice of the instant application upon this union,
it did not file an intervention and did not attend
the hearing. The notice of application drew the
attention of this union to the provisions of sub-
section (1) of section 9 of the Board's Rules of
Procedure. In the circumstances and on the basis
of all the evidence before it, the Board finds that
United Brotherhood of Carpenters & Joiners, of
America (Veneer Workers) Local Union 2904 has
abandoned its bargaining rights and no longer repre-
sents the employees of the respondent at Tweed for
whom it has heretofore been the bargaining agent."

The Board further endorsed the Record in part as follows:

"On the basis of all the evidence and having regard to the representations of the parties, the Board finds that Alphonse Jajoie, Samuel Robert Price (Sr.) and Michael Joseph McCormick do not exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act and are employees of the respondent included in the bargaining unit."

Board Member, G.R. Harvey dissented and said:

"In my opinion Samuel Robert Price (Sr.) and Michael Joseph McCormick exercise managerial functions within the meaning of section 1 (3) (b) of the Act. Accordingly I dissent in so far as they are included in the bargaining unit."

Number of names on revised eligibility list		53
Number of ballots cast	53	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	15	
Number of ballots marked as opposed to applicant	37	

2620-62-R: International Molders & Allied Workers Union of North America, Local No. 28 (Applicant) v. Plibrico (Canada) Ltd. (Respondent) v. International Hod Carriers & Building and Common Labourers' Union of America, Local No. 506 (Intervener).

Unit: "all employees of the respondent regularly employed at its plant in Metropolitan Toronto, save and except supervisors, persons above the rank of supervisor, office and sales staff." (21 employees in the unit).

Number of names on revised eligibility list		13
Number of ballots cast	13	
Number of ballots marked in favour of applicant	3	
Number of ballots marked as opposed to applicant	10	

3138-61-R: United Steelworkers of America (Applicant) v. Columbus McKinnon Limited (Respondent) v. The Canadian Steelworkers' Union, Local 53, N.C.C.L. (Intervener).

Unit: "all hourly rated employees of the respondent at St. Catharines, save and except foremen, persons above the rank of foreman, administrative staff (Main office and factory office)." (157 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 132)

Number of names on revised eligibility list		147
Number of ballots cast	148	
Number of segregated ballots (not counted)	1	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	62	
Number of ballots marked in favour of intervener	84	

3648-62-R: National Union of Public Service Employees (Applicant) v. Crystal Beach Company Limited (Respondent).

Unit: "all employees of the respondent at Crystal Beach, save and except superintendents, foremen, persons above the rank of superintendent or foreman and office staff." (23 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

Number of names on revised eligibility list		28
Number of ballots cast	26	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	14	
Number of ballots marked as opposed to applicant	11	

BALLOTS NOT COUNTED

3768-62-R: The Canadian Union of Operating Engineers (Applicant) v. Plymouth Cordage Company of Canada Ltd. (Respondent) v. United Steelworkers of America (Intervener).

Voting Constituency: "all stationary engineers in the employ of the respondent in its boiler room at Welland, save and except the chief engineer." (4 employees in the constituency).

Number of names on eligibility list	4
Number of ballots cast	4

Applications for Certification Withdrawn

659-60-R: United Brotherhood of Carpenters & Joiners of America, Local Union 1669 (Applicant) v. Barnett-McQueen Company Limited (District of Thunder Bay) (Respondent) v. International Union of Operating Engineers, Local 793 (Intervener) v. Lumber & Sawmill Workers' Union, Local 2693 (Intervener). (57 employees).

On September 8, 1961, the Board endorsed the Record as follows:

"Having regard to the decision of the Board in the Kent Tile and Marble Co. Ltd. Case (1961) C.L.S. 76-756, we further find that a unit of pile drivers would be appropriate in this case.

In the circumstances of this case the voting constituency must consist of all pile drivers in the employ of the respondent in the district of Thunder Bay save and except foremen, and persons above the rank of foreman.

Having regard to the decision of the Board in the Barnett-McQueen Case (1959) C.C.H. Canadian Labour Law Reporter, Transfer Binder, ¶16,139, C.L.C. 76-646, the voting constituency in the circumstances of this case must consist of persons who are employees included in the bargaining unit defined in the collective agreement between the General Contractors Division of the Lakehead Builders' Exchange and the Lumber and Sawmill Workers' Union, Local 2693 of the United Brotherhood of Carpenters & Joiners of America, which is binding upon the respondent. Working foremen are not eligible to vote since they were not included in the bargaining unit defined in the said agreement. The question as to whether working foremen should or should not ultimately be included in a bargaining unit in this case will be dealt with by the Board at a later date if it becomes necessary to do so."

Board Member H.F. Irwin dissented and said:

"I dissent. In view of the special circumstances of this case, I would have exercised the discretion given the Board under Section 6 (2) of the Act and held that the bargaining unit proposed by the applicant is inappropriate for collective bargaining."

On July 4, 1962 the Board further endorsed the Record as follows:

"This application is withdrawn on the request of the applicant by leave of the Board.

The attention of the parties is drawn to the Mathias Ouellette Case (1955) C.C.H. Canadian Law Reporter, Transfer Binder 1955-59 16026, C.L.S. 76-485."

2431-61-R: Amalgamated Lithographers of America, Local No. 42 (Applicant) v. The Robert Duncan and Company Limited (Respondent) v. Hamilton Typographical Union No. 129 (Intervener) v. Hamilton Printing Pressmen and Assistants' Union, Local 176 (Intervener). (6 employees).

4004-62-R: International Hod Carriers, Building and Common Labourers' Union of America - Local 527 (Applicant) v. Douglas Bremner Construction Limited (Ottawa) (Respondent). (16 employees).

4072-62-R: Lumber and Sawmill Workers' Union Local 2537 of the United Brotherhood of Carpenters and Joiners of America (Applicant) v. Art Roy (operations on Huron Forest Products Limited limits and worksites in the Sultan area) (Respondent). (69 employees).

4090-62-R: The Bricklayers' and Masons' Union, Local No. 1 Ontario, of the Bricklayers, Masons and Plasterers International Union of America (Applicant) v. Ivey-Dregor Construction Ltd. (County of Wentworth; the County of Halton, except that portion east of Sixteen Mile Creek from Lake-shore to Queen Elizabeth Highway and that portion east of the Sixth Line north from Queen Elizabeth Highway; Townships of North and South Grimsby and Caistor in the County of Lincoln; and County of Haldimand except Townships of Moulton and Dunn) (Respondent). (10 employees).

4123-62-R: The Canadian Union of Operating Engineers (Applicant) v. Canadian Steel Improvement Ltd. (boiler room, Toronto) (Respondent). (5 employees).

4137-62-R: International Hod Carriers' Building and Common Labourers' Union of America Local 1250 (Applicant) v. Standard Paving Limited (Ottawa) (Respondent). (63 employees).

APPLICATION FOR TERMINATION DISPOSED OF DURING JULY 1962

3677-62-R: Anson Dale, Thomas E. Summerfield and others (Applicants) v. Teamsters, Chauffeurs, Warehousemen & Helpers of America (Respondent). (GRANTED) (12 employees).

(Re: Hay Stationery Limited,
London, Ontario)

Number of names on eligibility list	12
Number of ballots cast	12
Number of ballots marked in favour of respondent	1
Number of ballots marked as opposed to respondent	11

APPLICATION UNDER SECTION 79(2) DISPOSED OF BY BOARD

3374-61-M: Cornwall Civic Employees Union, Local 234 of The National Union of Public Employees (Applicant) v. The Corporation of the City of Cornwall (Respondent). (Withdrawn).

APPLICATION UNDER SECTION 34(5) DISPOSED OF BY BOARD

3533-62-M: Bricklayers' and Masons' Union Local No. 1, Ontario, of the City of Hamilton (Applicant) v. Asma Construction Co. Ltd. (Respondent).

The Board endorsed the Record as follows:

"For reasons given in writing, the Board finds that no collective agreement has been made and no collective agreement is in operation binding upon the applicant and the respondent."

APPLICATIONS FOR DECLARATION THAT STRIKE UNLAWFUL DISPOSED
OF DURING JULY 1962

3956-62-U: Muirhead & Brown Cartage Limited carrying on business under the firm name and style of Commercial Cartage (Applicant) v. Ernest Beitler et al (Toronto) (Respondents). (Granted).

(SEE INDEXED ENDORSEMENT PAGE 137)

3957-62-U: G. & C. Cartage (Applicant) v. George Vousdan et al (Toronto) (Respondents) (Granted).

The Board endorsed the Record as follows:

"Direct evidence was given that employees of the applicant engaged in a work stoppage on or about June 7th, 1962, and that this work stoppage still subsisted at the date of the hearing.

While some of the evidence presented and relied on to show that certain conciliation proceedings still then in progress related to the bargaining unit of the employees in question was less than direct evidence and somewhat vague, we are constrained in viewing the evidence as a whole and as a matter of reasonable inference to find this fact established.

We find that the applicant has proved all the constituent facts necessary to entitle it to a declaration.

We declare that on or about June 7th, 1962, and since that date, the following respondents did engage in a strike contrary to section 54 (2) of The Labour Relations Act fourteen named persons."

Board Member D.B. Archer dissented and said:

"I dissent, I would not have declared employees guilty of illegal activities without direct proof of all the ingredients of the offence. The evidence, in my view, is grossly deficient of such proof."

3958-62-U: Lynch Cartage Limited (Applicant) v. Milton Price et al (Toronto) (Respondents) (Dismissed)

The Board endorsed the Record as follows:

"The work stoppage in this case came to an end before the date of the hearing. In these circumstances, and having regard to the fact that there is no evidence to suggest the existence of any threat or fact giving rise to a reasonable apprehension of a recurrence of the stoppage, and assuming, but without expressing any opinion with respect thereto, that the employees did engage in a strike contrary to section 54, it is our view that a declaration should not issue in this case. (See Ball Brothers Ltd. C.C.H. Canadian Labour Law Reporter Transfer Binder, 16,091). It is not without interest to note that the applicant admits making an arrangement directly with his employees pursuant to which they returned to work.

In the circumstances this application is dismissed."

3959-62-U: Tomlinson Cartage Limited (Applicant) v. G. Biesma et al (Toronto) (Respondents) (Granted).

The Board endorsed the Record as follows:

"Direct evidence was given that employees of the applicant engaged in a work stoppage on or about June 7th, 1962, and that this work stoppage still subsisted at the date of the hearing.

While some of the evidence presented and relied on to show that certain conciliation proceedings still then in question was less than direct evidence and somewhat vague, we are constrained in viewing the evidence as a whole and as a matter of reasonable inference to find this fact established.

We find that the applicant has proved all the constituent facts necessary to entitle it to a declaration.

We declare that on or about June 7th, 1962, and since that date, the following respondents did engage in a strike contrary to section 54 (2) of The Labour Relations Act, thirty named persons."

Board Member D.B. Archer dissented and said:

"I dissent, I would not have declared employees guilty of illegal activities without direct proof of all the ingredients of the offence. The evidence, in my view, is grossly deficient of such proof."

3960-62-U: Mack Cartage Limited (Applicant) v. R. G. Barless et al (Toronto) (Respondents). (Granted).

The Board endorsed the Record as follows:

"Direct evidence was given that employees of the applicant engaged in a work stoppage on or about June 7th, 1962, and that this work stoppage still subsisted at the date of the hearing.

While some of the evidence presented and relied on to show that certain conciliation proceedings still then in progress related to the bargaining unit of the employees in question was less than direct and somewhat vague, we are constrained in viewing the evidence as a whole and as a matter of reasonable inference to find this fact established.

We find that the applicant has proved all the constituent facts necessary to entitle it to a declaration.

We declare that on or about June 7th, 1962, and since that date, the following respondents did engage in a strike contrary to section 54 (2) of The Labour Relations Act, twenty-six named persons."

Board Member D.B. Archer dissented and said:

"I dissent, I would not have declared employees guilty of illegal activities without direct proof of all the ingredients of the offence. The evidence, in my view, is grossly deficient of such proof."

3961-62-U: J. A. Service & Son Limited (Applicant) v. G. Reigate et al (Toronto) (Respondents) (Granted).

The Board endorsed the Record as follows:

"Direct evidence was given that employees of the applicant engaged in a work stoppage on or about June 7th, 1962, and that this work stoppage still subsisted at the date of the hearing.

While some of the evidence presented and relied on to show that certain conciliation proceedings still then in progress related to the bargaining unit of the employees in question was less than direct evidence and somewhat vague, we are constrained in viewing the evidence as a whole and as a matter of reasonable inference to find this fact established.

We find that the applicant has proved all the constituent facts necessary to entitle it to a declaration.

We declare that on or about June 7th, 1962, and since that date, the following respondents did engage in a strike contrary to section 54 (2) of The Labour Relations Act (fifteen named persons."

Board Member D.B. Archer dissented and said:

"I dissent, I would not have declared employees guilty of illegal activities without direct proof of all the ingredients of the offence. The evidence, in my view, is grossly deficient of such proof."

3962-62-U: Harry C. Stone & Sons Limited (Applicant) v. Roy Dusenbury et al (Respondents) (Dismissed).

The Board endorsed the Record as follows:

"The work stoppage in this case came to an end before the date of the hearing. In these circumstances, and having regard to the fact that there is no evidence to suggest the existence of any threat or fact giving rise to a reasonable apprehension of a recurrence of the stoppage, and assuming, but without expressing any opinion with respect thereto, that the employees did engage in a strike contrary to section 54, it is our view that a declaration should not issue in this case. (See Ball Brothers Ltd. C.C.H. Canadian Labour Law Reporter Transfer Binder, 16,091.

In the circumstances this application is dismissed."

3964-62-U: Toronto Cartage Co. (Applicant) v. James Ash et al (Toronto) (Respondents). (Dismissed).

The Board endorsed the Record as follows:

"The work stoppage in this case came to an end before the date of the hearing. In these circumstances, and having regard to the fact that there is no evidence to suggest the existence of any threat or fact giving rise to a reasonable apprehension of a recurrence of the stoppage, and assuming, but without expressing any opinion with respect thereto, that the employees did engage in a strike contrary to section 54, it is our view that a declaration should not issue in this case. (See Ball Brothers Ltd. C.C.H. Canadian Labour Law Reporter Transfer Binder, 16,091). It is not without interest to note that the applicant admits making an arrangement directly with his employees pursuant to which they returned to work

In the circumstances this application is dismissed."

4143-62-U: Foundation Company of Canada Limited (Iron Ore Recovery Plant Project, Township of Watters) (Applicant) v. Fred David, et al (Respondents). (Withdrawn).

4146-62-U: Foundation Company of Canada Limited (Nurses' Resident Project at Sudbury General Hospital, Sudbury) (Applicant) v. William Cottrell, et al (Respondents). (Withdrawn).

APPLICATION FOR DECLARATION THAT LOCKOUT UNLAWFUL DISPOSED OF
DURING JULY 1962

4109-62-U: United Brotherhood of Carpenters and Joiners of America Local Union No. 93 (Applicant) v. Canadian Johns-Manville Company Limited (Royal Trust Building project, Metcalfe Street, Ottawa) (Respondent). (Dismissed)

(SEE INDEXED ENDORSEMENT PAGE 135)

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF DURING
JULY 1962

4046-62-U: J.A. Service & Son Limited on behalf of itself and other cartage companies (Applicant) v. Warehousemen & Miscellaneous Drivers' Union Local 419 affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent) (Dismissed).

(SEE INDEXED ENDORSEMENT PAGE 138)

4047-62-U: J. A. Service & Son Limited on behalf of itself and other cartage companies (Applicant) v. General Truck Drivers' Union Local No. 938 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (Dismissed).

(SEE INDEXED ENDORSEMENT PAGE 138)

4144-62-U: Foundation Company of Canada Limited (Iron Ore Recovery Plant Project, Township of Watters) (Applicant) v. Fred David et al (Respondents). (Withdrawn in Part).

The Board endorsed the Record as follows:

"Leave is granted to the Applicant to withdraw this application in so far as it relates to: (37 named persons)."

COMPLAINTS UNDER SECTION 65 (UNFAIR LABOUR PRACTICE)

DISPOSED OF DURING JULY 1962

3267-62-U: Welders Public Garage Employees Motor Mechanics and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Complainant) v. General Auto Body (Toronto) (Respondent).

3293-62-U: United Brotherhood of Carpenters & Joiners of America Local Union #802 (Complainant) v. Riverside Lumber Company (Riverside) (Respondent).

3601-62-U: United Glass & Ceramic Workers of America
(Applicant) v. Royal Canadian Art Pottery (Hamilton)
(Respondent).

3605-62-U: United Glass & Ceramic Workers of America
(Applicant) v. Royal Canadian Art Pottery (Hamilton)
(Respondent).

3663-62-R: Local Union 633 of the Amalgamated Meat
Cutters and Butcher Workmen of North America (Applicant)
v. Busy B Discount Foods Limited (Respondent).

3765-62-U: Welders Public Garage Employees Motor
Mechanics and Allied Workers Local Union 847, affiliated
with the International Brotherhood of Teamsters Chauffeurs
Warehousemen and Helpers of America (Complainant) v. Pigott
Motors (1961) Limited (Respondent).

3811-62-U: United Steelworkers of America (Applicant) v.
Delta Steel Fabricating Company Limited (Respondent).

3849-62-U: Local Union 633, Amalgamated Meat Cutters and
Butcher Workmen of North America, (Complainant) v.
Buehler Brothers Limited (Brantford Ontario) (Respondent).

3860-62-U: General Truck Drivers' Union Local 879, of the
International Brotherhood of Teamsters, Chauffeurs, Ware-
housemen and Helpers of America (Complainant) v. Westland
Products Ltd. (Weston) (Respondent).

3912-62-U: Mrs. Beverly J. St. Louis (Complainant) v.
Local 439 (Windsor) (Respondent).

3913-62-U: Mrs. Vera M. Cardinal (Complainant) v. Mr.
Charles Mercer (Windsor) (Respondent).

3914-62-U: Mrs. Yvonne Gignac (Complainant) v. Mr. Charles
Mercer (Windsor) (Respondent).

3915-62-U: Mrs. Doris Dixon (Complainant) v. Mr. Charles
Mercer (Windsor) (Respondent).

3916-62-U: Mrs. Barbara Miner (Complainant) v. Mr. Charles
Mercer (Windsor) (Respondent).

3917-62-U: Mrs. Ivy Leonard (Complainant) v. Mr. Charles
Mercer (Windsor) (Respondent).

3952-62-U: International Union of Electrical, Radio &
Machine Workers (Complainant) v. Canadian Admiral
Corporation Ltd. (Respondent).

3984-62-U: International Union of Doll & Toy Workers of
The U.S.A. and Canada (Complainant) v. Lido Toys (Canada)
Incorporated (Respondent).

4022-62-U: District 50, United Mine Workers of America
(Complainant) v. Proctor-Silex Limited (Picton) (Respondent).

4048-62-U: United Steelworkers of America (Applicant) v.
Delta Steel Fabricating Company Ltd. (Respondent).

4049-62-U: United Steelworkers of America (Applicant) v.
Delta Steel Fabricating Company Limited (Respondent).

4055-62-U: Yolande Alexander (Applicant) v. Rideau Club
(Ottawa) (Respondent).

4071-62-U: Brotherhood of Painters, Decorators and Paper-
hangers of America, Local 1630 (Complainant) v. Macey Neon
Signs Limited (Cooksville) (Respondent).

CERTIFICATION INDEXED ENDORSEMENTS

1147-61-R: District 50, United Mine Workers of America
(Applicant) v. Federal Equipment of Canada Ltd. (Respondent).

The Board endorsed the Record as follows:

"The applicant objects to 2 rulings made by the Returning Officer in connection with ballots cast in a representation vote directed by the Board. There were 30 names on the revised voters' list and 30 eligible persons cast ballots. In order to be certified the applicant had to secure more than 50 per cent of the ballots cast - that is, 16. (See Section 7(3) of The Labour Relations Act). The vote report shows that the 14 were marked in favour of the applicant, 15 against the applicant and the Returning Officer ruled that one ballot was spoiled.

The ballot was in the following form:

MARK "X" opposite your choice	
in your employment relations with	
FEDERAL EQUIPMENT OF CANADA LTD.,	
DO YOU WISH TO BARGAIN COLLECTIVELY THROUGH	
DISTRICT 50, UNITED MINE WORKERS OF AMERICA?	YES
	NO

Opposite the word "NO" one ballot was marked "NO X" and another was marked "NO". The Returning Officer ruled that both were to be counted as votes against the applicant. The applicant agrees with the ruling, in so far as it relates to the ballot marked "NO X", but challenges the ruling of the Returning Officer with respect to the ballot marked "NO". The applicant argues that, since it was not marked with an "X", the voter could have been saying 'no' to the "NO" section of the ballot - that is, that he could have been saying "yes" to the "YES" section of the ballot. In the alternative, say, the applicant, the ballot should be counted as a spoiled ballot.

The Board has consistently held that a ballot marked with a clear expression of intention will be counted as a good ballot, even though that expression of intention is not indicated by an "X". In this case, we have no doubt that the ruling of the Returning Officer was clearly right. Even if we were to hold that he was wrong, the ballot would have to be counted as a spoiled ballot.

It should be noted that even if we were to assume that the ballot declared to be spoiled by the Returning Officer should be counted in favour of the applicant, the applicant's best position in this matter would still only be 15 out of 30 which is less than the required percentage under section 7(3) of The Labour Relations Act. It is clear, therefore, on the representation vote directed by the Board in this matter, not more than fifty per cent of the ballots of all those eligible to vote were cast in favour of the applicant.

The application is dismissed."

3138-61-R: United Steelworkers of America (Applicant) v. Columbus McKinnon Limited (Respondent) v. The Canadian Steelworkers' Union, Local 53, N.C.C.L. (Intervener).

On June 18, 1962 the Board endorsed the Record in part as follows:

"In so far as the persons on Schedule C are concerned, the Board excluded such persons for purposes of the "count" on the ground that none was at work on the date of the making of the application (Feb. 10/62), and their return date was indefinite. We were informed at the hearing it could not be assumed anyone would be recalled shortly. The only assurance given the Board was that "normally a recall could be expected in September", some 6 or 7 months later. The return to work of the persons on Schedule C was clearly indefinite.

With respect to Schedule D, the two persons there listed were not at work on the date of the application. Both were absent because of sickness. One had been absent since September 1, 1961, a period of 7 months and was expected to return some time in March. The other was absent since January 10, 1962, and was expected to return approximately March 31. It was clear, therefore that each of these persons was not at work on the date of the making of the application and had not been at work during the month immediately preceding that date. Both persons were therefore excluded from the bargaining unit for the purposes of the count."

3802-62-R: The Canadian Union of Operating Engineers (Applicant) v. B.F. Goodrich Canada Ltd. (boiler room at its plant at King Street and Victoria Avenue, Kitchener) (Respondent) v. United Rubber, Cork, Linoleum & Plastic Workers of America, Local 73 (Intervener).

The Board endorsed the Record as follows:

"The applicant is seeking certification for employees of the respondent in a bargaining unit consisting of stationary engineers and helpers engaged in the boiler room at the respondent's plant at King St. and Victoria Avenue in Kitchener, save and except the chief engineer. At the opening of the hearing held in this matter on June 27, the applicant sought leave to amend the description of the bargaining unit so as to include another plant at 131 Goderich Drive. Leave to amend was refused after the Board had heard the representations of the parties.

The employees affected by the original application have been represented by the intervening union for collective bargaining purposes for at least 16 years. These employees have formed part of a much larger bargaining unit including hourly rated and wage incentive basis factory employees and certain hourly rated factory clerks.

The bargaining relationship has been governed by collective agreements between the respondent and intervener since February 1946. From time to time the stationary engineers and their helpers have received extra wage increases over and above general wage increases obtained for other employees in the bargaining unit. They also receive premium payments in the form of time and one half or double time for work performed on Saturdays and Sundays as such. The term of the collective agreement providing for such premium payments is not limited to the engineers, but in fact this is the only group of employees in the bargaining unit who are regularly employed in week-end work. There is evidence before the Board, which was not challenged, that certain increments gained for the engineers put them in a better position than engineers in other rubber plants and that these came about not from any request by the engineers, but because the intervener had found that they were at one time lower and had succeeded in negotiating a higher rate with the respondent.

The stationary engineers and helpers have been regarded by the intervener as part of the maintenance group. This group has a representative on the intervener's negotiating committee. While stationary engineers have never been on the negotiating committee, persons in the boiler room were free to stand for nomination. Apparently they have not chosen to do so, or for that matter for any other office in the intervener.

Grievances of the stationary engineers and helpers have from time to time been processed by the intervener. Up until the last four months there was no evidence of any dissatisfaction by the personnel in the boiler room with the intervener in its representation of this group of employees. There is some suggestion that recently some persons in the boiler room considered they had a grievance. The intervener took some action to rectify the situation, but it may be (and the evidence is none too clear on this point) they were unsuccessful or that at all events some of the personnel in the boiler room were not satisfied with what the intervener had done on their behalf.

The respondent and the intervener argue that this is a case where the Board should exercise its discretion under section 6(2) of The Labour Relations Act and find that the bargaining unit proposed by the applicant is not a unit appropriate for collective bargaining.

Reliance is placed on the decisions of the Board in the following cases: Lily Cup, O.L.R.B. Monthly Reports, January 1961, p.370; Canada Foundries (1961) C.C.H. Canadian Labour Law Reports, ¶ 16,203, C.L.S. 76-753; Automatic Electric, Board file No. 1501-61-R, O.L.R.B. Monthly Report, November 1961, p. 272; Dominion Fabrics, Board file No. 2331-61-R, O.L.R.B. Monthly Report, January 1962, p. 347. Having regard to those decisions and to the principles enunciated therein and to the facts of this case with respect to the history of collective bargaining covering the stationary engineers and helpers, we find ourselves in agreement with the submissions of the respondent and the intervener. The fact that at the present time there may exist an isolated instance of dissatisfaction with the intervener among some of the stationary engineers, is not sufficient, in our view, to warrant the Board taking the position that it should refuse to exercise its discretion.

The Board therefore finds that the bargaining unit proposed by the applicant is not a unit of employees appropriate for collective bargaining."

APPLICATION FOR DECLARATION THAT LOCKOUT UNLAWFUL

INDEXED ENDORSEMENT

4109-62-U: United Brotherhood of Carpenters and Joiners of America Local Union No. 93 (Applicant) v. Canadian Johns-Manville Company Limited (Royal Trust Building project, Metcalfe Street, Ottawa) (Respondent).

The Board endorsed the Record as follows:

"Application for a declaration of an unlawful lockout.

Assuming, but without deciding, that the respondent called or authorized an unlawful lockout, the question arises as to whether, in the circumstances of this case, the Board should exercise its discretion and issue such a declaration.

On the evidence presently before the Board, there is no collective agreement in operation between the parties. The last collective agreement in operation between the parties was in effect from May 1, 1959 to April 30, 1961. That agreement ceased to be in effect on April 30, 1961, as a result of a notice under the terms of the agreement given by the applicant to the respondent by letter dated January 3, 1961.

There has been no request for conciliation services. As a result, section 59 of The Labour Relations Act still governs the relationship between the parties.

The dispute in this case revolves around the refusal by the respondent to assign certain work to members of the applicant. The applicant claims that by virtue of certain provisions in the collective agreement referred to above, the respondent is obliged to assign the work to members of the applicant. The respondent admits that it has not assigned the work in question to members of the applicant.

The respondent appears to be bound by a collective agreement with Local 423 of the Lathers International Union. It is admitted that members of this latter union have been employed on some of the work, but the applicant is not challenging the assignment of the work to the lathers in this application. Rather it is complaining that work has been assigned to labourers and that under the collective agreement (which expired in 1961, the terms of which the applicant says are still in effect in so far as the matter in question is concerned, by virtue of section 59 of The Labour Relations Act), the work should have been assigned to members of the applicant.

It is clear that, although this application takes the form of a declaration for an unlawful lockout, what the applicant is really seeking to do is have the Board determine who has the right to perform certain types of work. Indeed, the very nature of the evidence led by the applicant - that is, detailed evidence describing the nature of the work including a filing of certain materials used in the performance of the work as exhibits - makes this crystal clear. Assuming, but without deciding, that the actions of the respondent constituted a lockout, this fact, i.e., the real nature of the relief sought by the applicant, is a factor which must be taken into consideration in determining whether a declaration should issue.

While it is true that a complaint was lodged by the applicant under section 66 of The Labour Relations Act and that the Jurisdictional Disputes Commission refused to entertain the complaint on the ground that it lacked jurisdiction, there are other points which merit attention. In the first place, the applicant and the respondent are in the midst of negotiations for a new collective bargaining agreement. While these negotiations do not seem to have been pressed by either side, nevertheless the parties are in a position to negotiate on the matter in dispute.

It seems to us that this is a matter which ought to be settled by the parties themselves under the collective bargaining process. Since the Jurisdictional Disputes Commission has declined jurisdiction, it may well be that the parties should, in the course of their negotiations, give consideration to referring such matters to some existing or new body for their final settlement.

Failing that or alternatively, it must not be forgotten that the question really involves an interpretation of a collective agreement. By section 3 of that agreement there is provision for the settlement of all disputes as to the interpretation of the agreement by way of arbitration. It is true that that collective agreement is no longer in operation, but the applicant maintains that by virtue of section 59 of The Labour Relations Act its provisions in fact govern the matters in dispute. That being the case, the remedy provided by subsection 2 of section 59, namely, arbitration, seems more appropriate to resolve a dispute such as the one in question here, rather than an application for a lockout declaration or an application for consent to prosecute such as the applicant has filed in another proceeding before the Board.

In all these circumstances and after carefully considering the representations of the parties, the Board is of the opinion that, even if the facts warrant a finding that the respondent called or authorized an unlawful lockout (and the Board makes no finding on this point one way or the other), this is not a case in which the Board, in the exercise of its discretion, ought to issue a declaration.

Accordingly, the application is dismissed."

APPLICATION FOR DECLARATION THAT STRIKE UNLAWFUL INDEXED

ENDORSEMENT

3956-62-U: Muirhead & Brown Cartage Limited carrying on business under the firm name and style of Commercial Cartage (Applicant) v. Ernest Beitler et al (Toronto) (Respondents).

The Board endorsed the Record as follows:

"Direct evidence was given that employees of the applicant engaged in a work stoppage on or about June 7th, 1962, and thereafter.

By the date of the hearing all employees save two had returned to work.

There is also direct evidence that since on or about June 7th, 1962, and up to the date of the hearing, a picket line was being maintained adjacent to the applicant's premises.

While some of the evidence presented and relied on to show that certain conciliation proceedings still then in progress related to the bargaining unit of the employees in question was less than direct and somewhat vague, we are constrained in viewing the evidence as a whole and as a matter of reasonable inference to find this fact established.

We find that apart from any consideration which may arise as to the exercise of our discretion against making a declaration in the circumstances of this case, that the applicant has otherwise proved all the constituent facts necessary to entitle it to a declaration.

In our view the continued presence of the picket line constitutes a threat and raises a reasonable apprehension of a recurrence of the strike by the named respondents. Accordingly the fact that all but two employees have returned to work does not in our view provide a reason for withholding the issuance of a declaration in this case. (See Ball Brothers Ltd. C.C.H. Canadian Labour Law Reporter 1955-59 Transfer Binder Binder, 16,091).

We declare that on or about June 7th, 1962, and thereafter, the following named respondents engaged in a strike contrary to section 54 (2) of The Labour Relations Act, there were twenty-seven named persons."

Board Member D.B. Archer dissented and said:

"I dissent, I would not have declared employees guilty of illegal activities without direct proof of all the ingredients of the offence. The evidence, in my view, is grossly deficient of such proof. Also even assuming there was sufficient evidence to warrant a finding that the employees had engaged in an unlawful strike, I would not have granted a declaration in the circumstances of this case."

APPLICATION FOR CONSENT TO PROSECUTE INDEXED ENDORSEMENTS

4046-62-U: J. A. Service & Son Limited on behalf of itself and other cartage companies (Applicant) v. Warehousemen & Miscellaneous Drivers' Union Local 419 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent).

4047-62-U: J.A. Service & Son Limited on behalf of itself and other cartage companies (Applicant) v. General Truck Drivers' Union Local No. 938 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent).

The Board endorsed the Record in each of the above applications as follows:

"The applicant has applied for consent to institute a prosecution against the respondent for the following offence alleged to have been committed: that the respondent did counsel, procure, support or encourage an unlawful strike contrary to the provisions of The Labour Relations Act of the Province of Ontario.

Section 55 of The Labour Relations Act reads as follows:

No trade union or council of trade unions shall call or authorize, and no officer, official or agent of a trade union or council of trade unions shall counsel, procure, support or encourage an unlawful strike.

Thus, section 55 makes it an offence for a trade union or council of trade unions to call or authorize an unlawful strike. The section further makes it an offence for an officer, official or agent of a trade union or council of trade unions to counsel, procure, support or encourage an unlawful strike.

In this application, the respondent is a trade union, not a union official. There is nothing in the section which makes it an offence for a trade union to counsel, procure, support or encourage an unlawful strike.

There is no other section in The Labour Relations Act which makes it an offence for a trade union to counsel, procedure, support or encourage an unlawful strike.

In view of these circumstances and in accordance with the provisions of section 45 of the Board's Rules of Procedure, the Board is of opinion that the applicant has failed to make out a prima facie case for the remedy requested and the application is therefore dismissed."

REQUEST TO THE BOARD TO RECONSIDER DECISION IN CERTIFICATION

APPLICATIONS

1711-61-R: Shopmen's Local Union #757 of the International Association of Bridge, Structural and Ornamental Iron Workers (Applicant) v. Prime Windows of Canada Limited (Respondent) v. United Steelworkers of America (Intervener).

The Board granted certification to the applicant - see the January 1962 Monthly Report of the Ontario Labour Relations Board, page 339.

Counsel for the respondent requested the Board to reconsider the decision. After hearings conducted by the Board the Record was endorsed as follows:

"The name of the respondent appearing in the style of cause of this application is amended to read "R.M.P. Industries Limited."

On the basis of all the evidence in this case and in particular on the evidence pertaining to the restriction contained in the constitution of the applicant against admitting persons into membership who are engaged in field erection and installation work and for the reasons given by the Board in the Gaymer Oultram Case, C.C.H. Canadian Labour Law Reporter, transfer binder 1949-54 ¶ 17,073 and the Ottawa Citizen, a division of the Southam Company Limited Case, C.C.H., Canadian Labour Law Reporter, transfer binder 1949-54, ¶ 17,076, the Board revokes its decision dated January 30th, 1962 in this matter. Since it therefore appears that the applicant is not a trade union which can represent the employees in the bargaining unit which the Board finds to be appropriate in its decision of January 4th, 1962, this application is accordingly dismissed."

Board Member G.R. Harvey dissented and said:

"I dissent. Had the majority of the Board certified the applicant as bargaining agent for the unit which I would have found to be appropriate, this problem would not have arisen and I would therefore now amend the bargaining unit accordingly."

3682-62-R: Retail, Wholesale and Department Store Union (Applicant) v. Canada Dry Bottling Company (Kirkland Lake) Limited (Respondent).

On July 19th, 1962 the Board further endorsed the Record as follows:

"The Board has considered the representations contained in the letters from Rene LeClerc and his solicitor dated June 13th, 1962 and is of opinion that there is no new evidence contained therein which would cause the Board to vary or revoke its decision dated the 4th day of June, 1962.

It is a well established practice of the Board, in order that it may find that the applicant's evidence of membership is adversely affected by a statement of desire, to require an employee or group of employees who have filed a statement of desire in the form and manner required by section 11 of the Board's Rules of Procedure to attend the hearing in person or by a representative and to adduce evidence which includes the testimony of such persons' personal knowledge and observation as to the circumstances concerning the origination of and the manner in which the signatures were obtained on the statement of desire.

The Board is of opinion that the Notice to Employees of Application for Certification (Form 5) cannot reasonably be misinterpreted by employees. The statement of desire referred to is only what it purports to be, a statement that the employees desire to make representations to the Board. Paragraph 8 of Form 5 instructs the employees that they may attend and be heard at the hearing. If a person fails to attend, the Board is empowered to deal with the application without considering the statement of desire and this was the course followed by the Board in this case.

The Board is therefore of opinion that it is not possible to reconsider its decision dated June 4th, 1962 in this matter."

3792-62-R: Retail Clerks International Association (Applicant) v. Shoppers City Limited (Respondent).

On July 31, 1962 the Board further endorsed the Record as follows:

"The respondent asks the Board to review its decision of June 7th, 1962 by which it certified the applicant as bargaining agent for

all employees in the bakery department of the respondent for the foodmart in Ottawa and Nepean Township, save and except assistant bakery manager, persons above the rank of assistant bakery manager and persons regularly employed for not more than 24 hours per week.

The Board has considered the representations of the parties as contained in the respondent's letters of June 20th, and July 12th, 1962 and the applicant's letter of July 4th and has re-examined the evidence which was before the Board at the original hearing.

The respondent duly filed a reply to the application and a list of its employees who it stated were in the bargaining unit described in the application on the date thereof together with specimen signatures for these persons. No objection was raised in the respondent's reply to the description of the bargaining unit requested by the applicant. In fact, in anything, it can be reasonably inferred from the wording of the respondent's reply that the respondent in substance at least then agreed with the description proposed by the applicant.

Notices of the date and place of the hearing were given to all parties and the application came on for hearing at Toronto on June 6th, 1962. No one appeared at this hearing for or on behalf of either the respondent or the group of employees who were signatories to a document purporting to indicate opposition to the application.

In reaching its decision of June 7th, 1962 the Board gave careful consideration to all the evidence before it including the fact that there then appeared to be no dispute as to the appropriateness of the unit requested.

It is obvious that the grounds given by the respondent as reasons for the Board now entering into a further inquiry for the purpose of reconsidering the appropriateness of the unit described in its certificate of June 7th, 1962 do not disclose any new matters of evidence or argument which could not, with reasonable diligence, have been presented by the respondent at the original hearing.

The respondent's only explanation for not attending and presenting these reasons at the original hearing as it had full opportunity to do, is its unexplained "inadvertence" in not retaining counsel to appear at the hearing on its behalf.

The facts which the respondent now alleges as constituting reasons for the Board finding the unit inappropriate are matters of evidence and argument.

If it was the respondent's intention to reply on them, it was surely incumbent upon it to see that they were placed before the Board at the hearing. In our view the respondent's letter does not disclose any basis for saying that the applicant was guilty of suppressing "the true situation" before the Board. On the contrary, the respondent's reply and non-appearance at the hearing could only indicate to the Board and the applicant that the respondent was not objecting to the unit asked for by the applicant. Further if the Board were now to accede to the respondent's request to re-open and review its decision of June 7th, 1962 it is obvious that the union would suffer further prejudice and delay which could readily have been avoided had the matters now referred to been raised at the original hearing.

In all the circumstances, the Board does not consider it advisable to re-open or to reconsider its decision of June 7th, 1962. The respondent's request is, therefore, denied."

3812-62-R: Retail Clerks International Association
(Applicant) v. Dupont I.G.A. Food Liner (Toronto)
(Respondent).

On July 17, 1962 the Board further endorsed the Record as follows:

"The Board has considered the representations of the respondent as set out in its letter dated June 26th, 1962 in this matter.

The Board is of opinion that there are no new matters contained in the respondent's letter which would cause the Board to vary or revoke its decision dated June 20th, 1962 in this matter. The matters which are raised in the respondent's letter are matters which could have been raised at the hearing and it is now too late for the respondent to raise issues which could have been raised at the hearing.

The Board expresses no opinion on whether The Labour Relations Act provides the respondent with any other remedy.

The Board has also considered the letter dated June 25th, 1962 from John D. McDonald an employee of the respondent who represented a group of employees at the hearing in this matter.

The Board is of opinion that there are no new matters contained in the letter from John D. McDonald which would cause the Board to vary or revoke its decision dated June 20th, 1962 in this matter.

The Board therefore does not consider it advisable to reconsider its decision dated June 20th, 1962 in this matter."

SPECIAL ENDORSEMENT IN CONCILIATION APPLICATION

3909-62-C: Sheet Metal Workers' International Association,
Local #265 (Applicant) v. J. Blum Sheet Metal (Respondent).

The Board endorsed the Record as follows:

"In all the circumstances of this case the application is dismissed without prejudice to another application being brought if and when the respondent resumes business operations. The attention of the parties is directed to the Brantford Produce Company Limited Case, C.C.H. Canadian Labour Law Reporter, #16,193 C.L.S. 76-731 and to the Victor Metal Containers Case, Ontario Labour Relations Board Monthly Report, December 1958, pp. 31-32."

PART 2

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TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS
BOARD

	July '62	Number of applications filed 1st 4 months of fiscal year	
		62-63	61-62
I Certification	51	277	272
II Declaration Terminating Bargaining Rights	7	22	21
III Declaration of Successor Status	-	2	1
IV Conciliation Services	105	511	449
V Declaration that Strike Unlawful	2	24	15
VI Declaration that Lockout Unlawful	1	4	1
VII Consent to Prosecute	4	39	42
VIII Complaint of Unfair Practice in Employment (Section 65)	9	51	55
IX Miscellaneous	<u>1</u>	<u>8</u>	<u>8</u>
TOTAL	<u>180</u>	<u>938</u>	<u>864</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	July '62	Number 1st 4 months of fiscal year	
		62-63	61-62
Hearings & Continuation of Hearings by the Board	102	456	339

TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

		<u>July</u> <u>'62</u>	<u>1st 4 months of fiscal yr.</u> <u>62-63</u>	<u>61-62</u>
I	Certification	61	296	256
II	Declaration Terminating Bargaining Rights	1	24	16
III	Declaration of Successor Status	-	-	1
IV	Conciliation Services	92	499	482
V	Declaration that Strike Unlawful	10	23	14
VI	Declaration that Lockout Unlawful	-	3	1
VII	Consent to Prosecute	4	29	42
VIII	Complaint of Unfair Practice in Employment (Section 65)	22	52	50
IX	Miscellaneous	<u>2</u>	<u>4</u>	<u>10</u>
TOTAL		<u>192</u>	<u>930</u>	<u>872</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD BY TYPES AND BY DISPOSITION

*Employees

Disposition	July '62	1st 4 mos. 62-63	fiscal yr 61-62	July '62	1st 4 mos. 62-63	fiscal yr 61-62
I <u>Certification</u>						
Certified	40	200	165	910	5177	4443
Dismissed	14	62	63	399	3180	3072
Withdrawn	<u>7</u>	<u>34</u>	<u>28</u>	<u>226</u>	<u>730</u>	<u>793</u>
TOTAL	<u>61</u>	<u>296</u>	<u>256</u>	<u>1535</u>	<u>9087</u>	<u>8308</u>
II <u>Termination of Bargaining Rights</u>						
Terminated	1	19	6	12	452	84
Dismissed	-	4	9	-	104	153
Withdrawn	<u>-</u>	<u>1</u>	<u>1</u>	<u>-</u>	<u>52</u>	<u>-</u>
TOTAL	<u>1</u>	<u>24</u>	<u>16</u>	<u>12</u>	<u>608</u>	<u>237</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S18 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

	Number of appl'ns dis. of		
	<u>July 1st 4 mos. fiscal yr.</u>		
	<u>'62</u>	<u>62-63</u>	<u>61-62</u>

III Conciliation Services*

Referred	80	446	458
Dismissed	6	10	6
Withdrawn	<u>6</u>	<u>43</u>	<u>18</u>
 TOTAL	 <u>92</u>	 <u>499</u>	 <u>482</u>

IV Declaration that
Strike Unlawful

Granted	5	6	1
Dismissed	3	7	-
Withdrawn	<u>2</u>	<u>10</u>	<u>13</u>
 TOTAL	 <u>10</u>	 <u>23</u>	 <u>14</u>

V Declaration that
Lockout Unlawful

Granted	-	-	-
Dismissed	-	3	-
Withdrawn	<u>-</u>	<u>-</u>	<u>1</u>
 TOTAL	 <u>-</u>	 <u>3</u>	 <u>1</u>

VI Consent to
Prosecute

Granted	-	9	7
Dismissed	2	5	4
Withdrawn	<u>1</u>	<u>14</u>	<u>31</u>
 TOTAL	 <u>3</u>	 <u>38</u>	 <u>42</u>

*Includes applications for conciliation services re unions claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED
OF BY THE BOARD

	<u>July</u> <u>'62</u>	<u>1st 4 months of fiscal yr.</u> <u>62-63</u>	<u>61-62</u>
* <u>Certification After Vote</u>			
pre-hearing vote	2	13	19
post-hearing vote	1	8	15
ballots not counted	2	2	-
<u>Dismissed After Vote</u>			
pre-hearing vote	2	9	6
post-hearing vote	5	22	20
ballots not counted	<u>1</u>	<u>1</u>	<u>-</u>
TOTAL	<u>13</u>	<u>55</u>	<u>60</u>

*Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF
BY THE BOARD

	<u>July</u> <u>'62</u>	<u>1st 4 months of fiscal yr.</u> <u>62-63</u>	<u>61-62</u>
* Respondent Union Successful	-	4	-
Respondent Union Unsuccessful	<u>1</u>	<u>5</u>	<u>-</u>
TOTAL	<u>1</u>	<u>9</u>	<u>-</u>

*In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer; the incumbent union is thus the respondent.

MONTHLY REPORT



AUGUST 1962

ONTARIO LABOUR RELATIONS BOARD

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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD DURING AUGUST 1962

Bargaining Agents Certified During August
No Vote Conducted

3023-61-R: Teamsters, Chauffeurs, Warehousemen and Helpers Local Union 880, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Pollard Bros. Limited (Respondent).

Unit: "all employees of the respondent employed at or working out of Harrow, save and except foremen, persons above the rank of foreman and office and sales staff."
(16 employees in the unit).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for all the employees of Pollard Bros. Limited with certain exceptions not here relevant.

Pollard Bros. Limited is an amalgamated company being the continuation of Pollard Industries Limited and Pollard Bros. Company Limited by Letters Patent dated December 31st, 1959.

The applicant was certified as bargaining agent for all employees of Pollard Bros. Company Limited by the Board's certificate dated May 23rd, 1956.

In all the circumstances of this case, the Board finds that the previous certification of the present applicant as bargaining agent for the employees of Pollard Bros. Company Limited does not operate as a bar to the applicant for certification as bargaining agent for the employees of the amalgamating company."

Board Member H.F. Irwin dissented and said:

"I dissent in respect of the inclusion of the seasonal employees in the bargaining unit.

Prior to December 31st, 1959, two separate companies existed: (1) Pollard Bros. Company Limited and (2) Pollard Industries Limited. On that date, these two companies amalgamated and continued as one company under the name of Pollard Bros. Limited.

Section 96 (4) of The Corporations Act, R.S.O. 1960, c. 71, reads as follows:

If the agreement is adopted in accordance with subsection 3, the amalgamating companies may apply jointly to the Lieutenant Governor for letters patent confirming the agreement and amalgamating the companies so applying, and on and from the date of the letters patent such companies are amalgamated and are continued as one company by the name in the letters patent provided, and the amalgamated company possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating companies.

History of Collective Bargaining

The applicant union was certified as bargaining agent for all employees (5 in number at the time) of Pollard Bros. Company Limited by a certificate issued by this Board dated May 23rd, 1956. The union served notice to bargain and meetings were held. Conciliation services were applied for and granted. A conciliation officer met with the parties but a collective agreement was not effected.

An application made by the employees of Pollard Bros. Company Limited for termination of bargaining rights was dismissed by the Board on June 20, 1957. No further action appears to have taken place until the union made the present application in respect of the employees of Pollard Bros. Limited on February 15, 1962 when there were 13 regular employees and no seasonal employees.

Seasonal Employees

As many as thirty (30) seasonal employees were hired each year by Pollard Industries Limited, the other amalgamating company. These employees were primarily engaged in the distribution and spraying of calcium chloride and other chemicals on roads, weeds and crops during the summer months and in plant production, in connection with sunflower seeds, during the fall season. A large number of these seasonal employees returned each year for such work for periods extending from one (1) week up to fifteen (15) weeks. In most cases, they worked in excess of 24 hours per week.

These seasonal employees were never employees of Pollard Bros. Company Limited. The certificate issued by this Board on May 23, 1956 did not apply to them. The applicant union was never entitled to bargain on their behalf. Furthermore, they were not in the employ of the new company, Pollard Bros. Limited, at the time the present application was made on February 15, 1962. The Board's long established policy is not to include seasonal employees in an industrial bargaining unit unless such employees are in the active employ of the employer at the time the application for certification was made.

For these reasons, I would have excluded the seasonal employees from the bargaining unit. This in no way denies them the right to seek collective bargaining through a union of their choice if they desire to do so. On the other hand, it guarantees their right to deal with their employer without the intervention of a trade union which appears to be the wish of the seasonal employees in the instant case."

3114-51-R: United Steelworkers of America (Applicant) v. Falconbridge Nickel Mines Limited (Respondent) v. Sudbury Mine, Mill and Smelter Workers' Union, Local 598 (Intervener) v. Sudbury Mine, Mill & Smelter Workers Local 598, of the International Union of Mine, Mill & Smelter Workers (Intervener) v. International Union of Mine, Mill & Smelter Workers (Sudbury District) (Intervener).

The Board endorsed the Record as follows:

"This application for certification involving over 2,000 employees at Falconbridge Nickel Mines Limited at Falconbridge was made on February 28, 1962. Hearings on issues raised by the parties occupied approximately 10 days, 7 of which were in Sudbury. In addition, a number of persons on the Board's staff were engaged at both Toronto and Sudbury for many days in the investigation of certain preliminary matters. Following its last hearing in Sudbury on July 23rd, the Board informed the parties by telegram, dated July 24, 1962, that it intended to schedule a further hearing in Sudbury or Toronto (depending on circumstances more particularly outlined in the telegram) on July 30, 1962. On July 25th the Board received the following letter from the solicitors for the applicant:

We have the Registrar's telegram of July 24, setting forth proposals regarding further hearings relating to the above application for certification. In our view, there will be no need for additional hearings as we have now been instructed to process this application no further.

In this case the Board has heard evidence from a number of persons whose names appeared on cards filed in support of the application, to the effect that such persons did not sign the applications for membership filed on their behalf or, if they did sign, did not pay any money on account of dues. It is fully appreciated that the onus of proving its case is on the Applicant, as in all cases, and that when the authenticity of application cards is denied by those alleged to have signed them, the probative value of the cards becomes slight.

In the circumstances of this case, in which a relatively small number of persons obtained the signatures of a large number of workers under a variety of difficult conditions, the burden of re-establishing the validity of the questioned cards becomes a heavy one. The applicant simply cannot adduce the kind of detailed evidence that would discharge this onus satisfactorily. It therefore does not propose to take up the Board's time by leading evidence that could only be of a general nature and that would, at best, be inconclusive.

We are for these reasons instructed to seek leave to withdraw the application and we now do so.

Copies of this letter were forwarded to the other parties for comment. The Solicitors for Intervener #3 replied requesting the Board, among other things, to dismiss the application. The Solicitors for Intervener #2 joined in this request. A copy of the letter from the Solicitors for Intervener #3 was forwarded to the Solicitors for the applicant for their information. The Board has received no other communications from any of the parties.

In all the circumstances of this case, the Board is of the opinion that the application should be dismissed and the application is accordingly dismissed."

3376-62-R: Welders, Public Garage Employees, Motor Mechanics, and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. A.D. Gorrie & Company Limited (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, control operators (supervisors), service salesmen, all parts department employees (except parts delivery drivers), janitor-watchman, estimators, appraisers, new and used car salesmen, time clerks, office and sales staff, persons regularly employed for not more than 24 hours per week and students employed during the school vacation period." (76 employees in the unit).

The Board endorsed the Record in part as follows:

"The Board declares that service department rampers are employees of the respondent included in the bargaining unit and that coffee bar attendants are not included in the bargaining unit."

3513-62-R: Milk and Bread Drivers, Dairy Employees, Caterers and Allied Employees, Local Union 647, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Silverstein's Bakery Limited (Respondent).

Unit: "all route salesmen of the respondent working at or out of Metropolitan Toronto, save and except supervisors, persons above the rank of supervisor, inside employees and office staff." (21 employees).

(UNIT AGREED TO BY THE PARTIES).

3764-62-R: Retail Clerks International Association (Applicant) v. Bassins Food Markets Limited (Respondent).

Unit: "all employees of the respondent in its stores at Ajax, save and except store managers, persons above the rank of store manager, office staff, persons regularly employed for not more than 24 hours per week and students employed for the school vacation period." (15 employees in the unit).

3794-62-R: International Hod Carriers' Building and Common Laborers' Union of America Local 837, Hamilton, Ontario (Applicant) v. Thomas Construction Company (Respondent).

Unit: "all construction labourers in the employ of the respondent working in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (6 employees in the unit).

3832-62-R: Retail, Wholesale and Department Store Union, (Applicant) v. Wonder Bakeries Limited (Respondent).

Unit: "all driver-salesmen of the respondent at Finch, save and except supervisors, persons above the rank of supervisor, office staff, persons regularly employed for more than 24 hours per week and students employed for the school vacation period." (2 employees in the unit).

3877-62-R: National Union of Public Service Employees (Applicant) v. The Municipal Corporation of the Township of Humberstone (Respondent).

Unit: "all employees of the respondent's roads and maintenance department, save and except superintendent, those above the rank of superintendent and office staff." (10 employees in the unit).

3919-62-R: International Union of Operating Engineers, Local 796 (Applicant) v. Gibson Brothers, Limited (Respondent).

Unit: "all stationary engineers employed by the respondent at 481 University Avenue, Toronto, save and except the chief engineer." (4 employees in the unit).

3987-62-R: Building Service Employees' International Union Local 183 (Applicant) v. Trenton Memorial Hospital (Respondent).

Unit: "all employees of the respondent at its hospital at Trenton, save and except professional medical staff, graduate nursing staff, undergraduate nurses, graduate pharmacists, undergraduate pharmacists, graduate dietitians, student dietitians, technical personnel, supervisors, foremen, persons above the rank of supervisor or foreman, chief engineer, office staff and persons regularly employed for not more than 24 hours per week." (77 employees in the unit).

The Board further endorsed the Record as follows:

"For the purposes of clarity, we declare that the term "technical personnel" comprises physiotherapists, occupational therapists, psychologists, electro-encephalographists, electrical shock therapists, laboratory, radiological, pathological and cardiological technicians.

For the purposes of clarity, we declare that the bargaining unit includes certified nursing assistants."

4102-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Anglin-Norcross Ontario Ltd. (Respondent) v. Local 222 Goderich, Ont. United Brotherhood of Carpenters & Joiners of America (Intervener).

Unit: "all carpenters and carpenters' apprentices employed by Anglin-Norcross Ontario Ltd. in the County of Perth, save and except non-working foremen and persons above the rank of non-working foreman." (16 employees in the unit).

Board Member D.B. Archer dissented and said:

"I dissent. I would have found the appropriate bargaining unit in this case to be all carpenters and carpenters' apprentices employed by the respondent in the Counties of Perth, Oxford, Bruce, Middlesex and Elgin, save and except non-working foremen and persons above the rank of non-working foreman."

4126-62-R: Bricklayers, Masons and Plasterers' International Union, Local 10 (Applicant) v. Harry W. Cooper (Respondent).

Unit: "all bricklayers, stonemasons and plasterers in the employ of the respondent in the Counties of Frontenac and Lennox and Addington, except the Township of Richmond, save and except non-working foremen and persons above the rank of non-working foreman." (13 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

4129-62-R: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. London Food City (Respondent).

Unit: "all employees of the respondent in the meat departments of its stores in Westminster Township, save and except persons employed for not more than 24 hours per week and students hired for the school vacation period." (7 employees in the unit).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for all meat department employees of the respondent in its store in Westminster Township. The respondent employs in its meat department three full time employees and four persons employed for not more than 24 hours per week.

The Board has inquired into the history of applications made by, and the collective agreements entered into with, the Amalgamated Meat Cutters and Butcher Workmen of North America with respect to supermarket employees.

It appears from the Board's records that the Amalgamated Meat Cutters and Butcher Workmen of North America has consistently applied for three separate and distinct bargaining units in super-markets and accordingly has bargained for three separate bargaining units which may generally be described as follows:

- (a) all employees in the meat department, save and except persons employed for not more than 24 hours per week, and students hired for the school vacation period.
- (b) all employees in the store, save and except the meat department employees, persons regularly employed for not more than 24 hours per week, students hired for the school vacation period and persons exercising managerial functions.
- (c) all employees in the store employed for not more than 24 hours per week and students hired for the school vacation period."

The Board further endorsed the Record as follows:

"In view of the foregoing the Board further finds that part time employees of the respondent in its meat department do not constitute an appropriate bargaining unit, and the Board further finds that it would not be appropriate to include them in the bargaining unit which it has found to be appropriate in this case.

This application is accordingly dismissed in so far as it relates to the part time employees of the respondent in its meat department."

4130-62-R: Bricklayers, Masons and Plasterers International Union, Local 10 (Applicant) v. Joseph Fitzpatrick (Respondent).

Unit: "all bricklayers, stonemasons and plasterers in the employ of the respondent in the Counties of Frontenac and Lennox and Addington, except the Township of Richmond, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

4149-62-R: United Steelworkers of America (Applicant) v. Polyfiber Limited (Respondent).

Unit: "all employees of the respondent at Renfrew, save and except foremen, persons above the rank of foreman and office and sales staff."

The Board endorsed the Record as follows:

"For the purposes of clarity, the Board declares that quality control inspectors are included in the bargaining unit."

4185-62-R: Local 944, International Union of Operating Engineers (Applicant) v. Canadian Cannery, Limited (Respondent).

Unit: "all stationary engineers of the respondent employed in its power house at Dresden, save and except the chief engineer." (3 employees in the unit).

4190-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local # 506 (Applicant) v. Spun Concrete Structures (Canada) Limited (Respondent).

Unit: "all employees of the respondent at Brampton, save and except foremen and persons above the rank of foreman." (25 employees in the unit).

4199-62-R: Federal Labour Union, Local 24892, Canadian Labour Congress (Applicant) v. Tank Linings Ltd. (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office and sales staff." (21 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

4207-62-R: Hotel & Restaurant Employees and Bartenders Int. Union (Applicant) v. Queens Hotel (Respondent).

Unit: "all tapmen, bartenders, beverage waiters, bar-boys and improvers in the employ of the respondent at Sturgeon Falls, save and except manager, persons above the rank of manager and persons regularly employed for not more than 24 hours per week." (3 employees in the unit).

4208-62-R: Hotel & Restaurant Employees and Bartenders Int. Union (Applicant) v. Nipissing Hotel Limited (Respondent).

Unit: "all tapmen, bartenders, beverage waiters, bar-boys and improvers in the employ of the respondent at Sturgeon Falls, save and except manager, persons above the rank of manager and persons regularly employed for not more than 24 hours per week." (5 employees in the unit).

4209-62-R: Hotel & Restaurant Employees and Bartenders Int. Union (Applicant) v. Windsor Hotel, Fevando Company Ltd. (Respondent).

Unit: "all tapmen, bartenders, beverage waiters, bar-boys and improvers in the employ of the respondent at Sturgeon Falls, save and except manager, persons above the rank of manager and persons regularly employed for not more than 24 hours per week." (4 employees in the unit).

4214-62-R: Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 880 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. British Leaf Tobacco Company of Canada Limited (Respondent) v. Local 944, International Union of Operating Engineers (Intervener).

UNIT 1: "all stationary engineers in the employ of the respondent in its boiler room at Chatham, save and except assistant chief engineer and persons above the rank of assistant chief engineer." (3 employees in the unit).
(INTERVENER CERTIFIED).

UNIT 2: "all employees of the respondent at Chatham save and except foremen, persons above the rank of foreman, stationary engineers in the boiler room, office and sales staffs, persons regularly employed for not more than 24 hours per week and seasonal employees." (54 employees in the unit).
(APPLICANT CERTIFIED).

4217-62-R: International Association of Machinists (Applicant) v. P. Graham Bell Associates Ltd. (Respondent).

Unit: "all employees of the respondent at its plant in Georgetown, save and except foremen, persons above the rank of foreman, office staff and persons regularly employed for not more than 24 hours per week." (47 employees in the unit).

4224-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 527 (Applicant) v. Douglas Bremner Contractors and Builders, Limited (Respondent).

Unit: "all construction labourers of the respondent employed at or working out of Ottawa, save and except non-working foremen and persons above the rank of non-working foreman." (16 employees in the unit).

4230-62-R: Sudbury General Workers' Union, Local 101, C.L.C. (Applicant) v. Bertrand Bros. (Respondent).

Unit: "all employees of the respondent at Sudbury, save and except foremen, persons above the rank of foreman and office and sales staff." (7 employees in the unit).

4234-62-R: Food Handlers' Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America, (Applicant) v. Homedale IGA Foodliner (Respondent).

Unit: "all employees of the respondent at its stores in St. Thomas, save and except the meat department employees, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (6 employees in the unit).

4235-62-R: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. Homedale IGA Foodliner (Respondent).

Unit: "all employees of the respondent in the meat departments of its stores in St. Thomas, save and except persons employed for not more than 24 hours per week and students hired for the school vacation period." (3 employees in the unit).

4241-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. Alpine Construction Company (Respondent).

Unit: "all construction labourers of the respondent within a 25 mile radius from the Toronto City Hall, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

4242-62-R: Welders, Public Garage Employees, Motor Mechanics & Allied Workers Local Union 847 (Applicant) v. Church Motors Ltd. (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office staff, new and used car and service salesmen and parts countermen who primarily serve the public." (19 employees in the unit). (UNIT AGREED TO BY THE PARTIES).

4244-62-R: The National Union of Public Service Employees (Applicant) v. The Corporation of the Township of Widdifield (Respondent).

Unit: "all employees of the respondent in its Public Works and Waterworks Departments, save and except foremen, persons above the rank of foreman, office staff, and persons regularly employed for not more than 24 hours per week." (20 employees in the unit).

4267-62-R: International Union of Operating Engineers, Local 793 (Applicant) v. C. A. Pitts General Contractor Limited (Respondent).

Unit: "all employees of the respondent employed on the Jones and Laughlin Steel Corporation project at Adams Mine near Kirkland Lake engaged in the operation of cranes, shovels, bulldozers and similar equipment, and those primarily engaged in the repairing and maintaining of same, save and except non-working foremen and persons above the rank of non-working foreman." (62 employees in the unit).

4288-62-R: International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U.A.W.) (Applicant) v. Amherst Quarries Limited (Respondent).

Unit: "all employees of the respondent at its Amherstburg quarries, save and except foremen, persons above the rank of foreman and office staff." (12 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

4354-62-R: The National Union of Public Employees (Applicant) v. The Metropolitan Toronto Housing Co. Ltd. (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except office staff, supervisors and persons above the rank of supervisor." (8 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

Certified Subsequent to Pre-Hearing Vote

3626-62-R: United Textile Workers of America (Applicant) v. Wabasso Cotton Company Limited (Respondent) v. Local 866, International Union of Operating Engineers (Intervener) v. Canadian Textile Council (Intervener).

Unit: "all hourly-rated and piecework rated employees of the respondent at Welland, save and except persons acting in a supervisory capacity or having authority to hire, discharge or suspend employees, general foremen, foremen, assistant foremen, foreladies, watchmen plant police, laboratory employees, testers, classers, stores employees, boiler house employees, mill clerks, office employees and persons regularly employed for not more than 24 hours per week."
(624 employees in the unit).

Number of names on revised
eligibility list
Number of ballots cast
Number of spoiled ballots

597
597
1

Number of ballots marked in favour of applicant	374
Number of ballots marked in favour of intervener, Canadian Textile Council	216
Number of ballots segregated (not counted)	6

3876-62-R: The Canadian Union of Operating Engineers
(Applicant) v. Hotel Dieu Hospital (Respondent) v. Local 944,
International Union of Operating Engineers (Intervener).

Unit: "all stationary engineers, firemen, apprentices and
helpers employed by the respondent in its power house at
Windsor, save and except the chief engineer."
(8 employees in the unit).

Number of names on eligibility list	8
Number of ballots cast	8
Number of ballots marked in favour of applicant	7
Number of ballots marked in favour of intervener	1

3922-62-R: Canadian Union of Operating Engineers (Applicant)
v. Queensway General Hospital Association (Respondent) v.
International Union of Operating Engineers Local 796
(Intervener).

Unit: "all stationary engineers of the respondent employed in
its boiler room at its hospital in Metropolitan Toronto, save
and except the chief engineer." (4 employees in the unit).

Number of names on revised eligibility list	5
Number of ballots cast	5
Number of ballots marked in favour of applicant	5
Number of ballots marked in favour of intervener	0

4140-62-R: The Canadian Union of Operating Engineers
(Applicant) v. Northern Pigment Company Limited (Respondent).

Unit: "all stationary engineers employed by the respondent
in its boiler room at Metropolitan Toronto, save and except
the chief engineer." (4 employees in the unit).

Number of names on eligibility list	4
Number of ballots cast	4

Number of ballots marked in favour of applicant	4
Number of ballots marked in favour of International Union of Operating Engineers, Local 796	0

Certified Subsequent to Post-Hearing Vote

3942-62-R: Teamsters, Chauffeurs, Warehousemen and Helpers
Local 91 affiliated with International Brotherhood of Teamsters,
Chauffeurs, Warehousemen and Helpers (Applicant) v. Proctor-
Silex Ltd. (Respondent) v. District 50, United Mine Workers of
America (Intervener).

- and -

3950-62-R: District 50, United Mine Workers of America
(Applicant) v. Proctor-Silex Ltd. (Respondent).

THE ABOVE MATTERS ARE CONSOLIDATED.

Unit: "all employees of the respondent at Picton, save and
except foremen, persons above the rank of foreman and office
and sales staff." (59 employees in the unit).

Number of names on revised eligibility list			56
Number of ballots cast		8	56
Number of ballots spoiled			
Number of ballots marked in favour of Teamsters, Chauffeurs, Warehousemen and Helpers Local 91 affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers		0	
Number of ballots marked in favour of District 50, United Mine Workers of America		48	

Applications for Certification Dismissed No Vote Conducted

2205-61-R: Canadian Union of Operating Engineers (Applicant)
v. Cyanimid of Canada Limited (Respondent). (8 employees).

The Board endorsed the Record as follows:

"The applicant applies to be certified for a
bargaining unit of the Respondent's employees which
it describes as follows:

"all stationary engineers employed as compressor operators at the plant of the respondent in Hamilton, save and except the chief engineer."

It is manifest on the evidence before us that the persons who would fall within the scope of such a bargaining unit do not exercise technical skills nor are they members of a craft by reason of which they are distinguishable from other employees, who, in the circumstances of this case, commonly bargain separately and apart from other employees of the respondent. On the contrary, the skills which they exercise and functions which they perform in the compressor room are closely associated and integrated with the respondent's production process and with the skills exercised and functions performed by employees in production work, some of whom are also stationary engineers.

It is evident that less than 45 per cent of the respondent's employees in any bargaining unit which the Board would find appropriate were members of the applicant at the time the application was made.

The application is dismissed."

2239-61-R: Laundry, Dry Cleaning & Dye House Workers' International Union, Local 351 (Applicant) v. Ideal Laundry Limited (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen and supervisors, persons above the rank of foreman or supervisor, driver salesmen, sales clerks, office staff and persons regularly employed for not more than 24 hours per week."
(29 employees in the unit).

3031-61-R: Canadian Merchant Service Guild (Applicant) v. The Municipality of Metropolitan Toronto (Respondent) v. The Toronto Municipal Employees' Association, Local Union Number 79 (Intervener). (13 employees).

The Board endorsed the Record as follows:

"Although the applicant has requested leave to withdraw its application herein, the Board following its usual practice in such cases, dismisses the application."

3445-62-R: International Union of Operating Engineers, Local 865 (Applicant) v. The Hydro Electric Power Commission of Ontario (Respondent) v. Ontario Hydro Employees Union, NUPSE-CLC (Intervener).

The Board endorsed the Record as follows:

"The applicant union has applied to be certified for a bargaining unit of the employees of the respondent commission consisting of all employees of the respondent at its Thunder Bay Generating Station with the exception of electrical operators, supervisors, clerical workers and construction workers. On the evidence presented at the hearing, the respondent's Thunder Bay Generating Station, at the time of the making of the application, was going through the commissioning stage, the intention being that, as soon as the station was fully commissioned, it would be closed down completely and would not go into operation until some time in 1965. At the time of the making of the application, the 13 employees at the station on whose behalf the applicant sought to be certified fell into 3 categories:

(i) Some were employees who had been hired as part of the respondent's construction division and in that capacity were bound by a collective agreement between the respondent and the Allied Construction Council;

(ii) Some were employees who are normally located at either the J. Clarke Keith Generating Station or the Richard L. Hearn Generating Station. At those stations they are members of bargaining units for which the Canadian Union of Operating Engineers is the bargaining agent. These employees were transferred on a temporary basis to the Thunder Bay Generating Station and were scheduled to return to their jobs as soon as the station was fully commissioned and with the understanding that, during their service at the Thunder Bay Generating Station, they retained the seniority which they enjoyed in their regular bargaining units;

(iii) A number of employees were hired "locally" and these were represented for collective bargaining by the intervener, Ontario Hydro Employees Union. There were about 100-115 employees at the Thunder Bay Generating Station at the time of the making of the application. From July 1, 1961, to December 15, 1961, the work of the employees was in the ratio of sixty-five per cent on construction and thirty-five per cent on commissioning; since then the time ratio has been seventy-five per cent on commissioning and twenty-five per cent on construction.

When the station is put into operation in 1965, the staff required to operate it will consist of at least 40 employees. The applicant has 6 members among the employees who, in its view, constitute the appropriate bargaining unit at this time.

It should be noted that the applicant is seeking not a craft unit but an industrial unit. The appropriate unit, then, would consist either of the employees in the construction phase or of the employees in the operational phase of the project. If we assume for present purposes that the employees engaged in the construction phase comprise the bargaining unit, the unit would consist not only of the 13 employees whom the applicant here seeks to represent, but also of the other employees who are engaged in construction work at the station. It is obvious that any unit comprising these employees consists of such a number of employees that the applicant lacks the necessary membership either for a vote or for outright certification. If, on the other hand, we were to treat the employees engaged in the "operation" of the station as the appropriate unit, it is obvious in the circumstances of this case that there is not a substantially representative group of employees in the bargaining unit at this time. The applicant lacks sufficient membership to warrant outright certification and it would be contrary to long established policy for the Board to direct that a representation vote be taken in the operational unit at a future date, some 3 years hence, on the basis of evidence presented with respect to employees who are engaged primarily in the construction phase of the project. In other words the application is premature."

3474-62-R: International Molders and Allied Workers' Union (Applicant) v. Certified Automotive Replacements (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen and foreladies, persons above the rank of foreman or forelady and office and sales staff."
(43 employees in the unit).

3874-62-R: The Sheet Metal Workers' International Association Local Union #285 (Applicant) v. Monarch Heating Installations Limited (Respondent). (14 employees).

4136-62-U: United Brotherhood of Carpenters and Joiners of America Local Union No. 93 (Applicant) v. Canadian Johns-Manville Company Limited (Respondent). (DISMISSED)

The Board endorsed the Record as follows:

"Prior to the day scheduled for the hearing of this case, the Board heard another case involving the same parties in which the applicant was seeking a declaration that the respondent called or authorized an unlawful lockout. It was agreed by the parties in that case that the evidence there heard and the representations made would apply to the present case.

For the reasons given in the United Brotherhood of Carpenters and Joiners of America Local Union 93, and Canadian Johns-Manville Company Limited Case, File No. 4109-62-U, leave to prosecute is refused.

The application is dismissed."

4189-62-R: United Brotherhood of Carpenters & Joiners of America (Applicant) v. C.H. Heist Limited (Respondent) v. Local Union 1590 of Brotherhood of Painters, Decorators and Paperhangers of America (Intervener). (24 employees).

The Board endorsed the Record as follows:

"On the evidence and the applicant's admission, the Board finds that there is a current collective agreement effective May 1st, 1962 to April 30th, 1964 between The Sarnia Builders and Contractors Association of Sarnia on behalf of the respondent and other members of the first part and the intervener of the second part. The Board finds that the employees in the bargaining unit requested by the applicant are bound by this agreement.

This application is, therefore, untimely and must be dismissed."

4232-62-R: The National Union of Public Employees (Applicant) v. The Municipal Corporation of the County of Middlesex (Respondent). (16 employees).

The Board endorsed the Record as follows:

"The Board finds that the respondent is a Municipality as defined in The Department of Municipal Affairs and that it has declared under Section 78 of The Labour Relations Act, R.S.O. 1950, c 194 (now section 89 of The Labour Relations Act, R.S.O. 1960, c 202) that The Labour Relations Act shall not apply to it in its relationship with its employees or any of them. Assuming for present purposes that the employees whom the applicant seeks

to represent are employees of the respondent corporation, the Board has no jurisdiction, in view of the action of the respondent in making the declaration referred to above, to process this application further and the proceeding is accordingly terminated."

4258-62-R: Hunter Veneer Shop Union (Applicant) v. Hunter Veneers Limited (Tweed plant) (Respondent). (59 employees).

Certification Dismissed subsequent to Pre-Hearing Vote

4012-62-R: International Woodworkers of America (Applicant) v. Maple Leaf Veneer Company Limited (Respondent).

Voting Constituency: "all employees of the respondent at its plant in the Township of Bentinck, save and except foremen, persons above the rank of foreman, office and sales staff and students hired for the school vacation period."
(163 employees in the constituency).

Number of names on revised eligibility list		133
Number of ballots cast	133	
Number of spoiled ballots	3	
Number of ballots segregated (not counted)	1	
Number of ballots marked in favour of applicant	58	
Number of ballots marked as opposed to applicant	71	

Certification Dismissed subsequent to Post-Hearing Vote

1492-61-R: Timmins Mine and Mill Workers Union Local 241 of the International Union of Mine Mill and Smelter Workers (Canada) (Applicant) v. Kam Kotia Porcupine Mines Limited (Respondent) v. United Steelworkers of America (Intervener).

Unit: "all employees of the respondent at its mine, mill and plant in Robb Township in the District of Cochrane, save and except shift bosses, foremen, and persons above the ranks of shift boss or foreman, office staff, persons employed in the engineering and geological departments, chief chemist, assistant chief chemist and security guards."
(59 employees in the unit) (APPLICANT AND INTERVENER DISMISSED)

(SEE INDEXED ENDORSEMENT PAGE 169)

Number of names on revised eligibility list	63
Number of ballots cast	73

Number of spoiled ballots	16
Number of ballots segregated (not counted)	1
Number of ballots marked in favour of applicant	29
Number of ballots marked in favour of intervener	17

APPLICATIONS FOR CERTIFICATION WITHDRAWN DURING AUGUST 1962

4262-62-R: International Association of Machinists (Applicant) v. The De Havilland Aircraft of Canada Limited; Canadian Guards Association; Local 673 of The International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) (Respondent) v. Local 112 of The International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW-AFL-CIO) (Intervener). (303 employees).

4263-62-R: International Association of Machinists (Applicant) v. Canadian Guards Association; Local 673 of The International Union, United Automobile Aircraft and Agricultural Implement Workers of America (U.A.W.) (Respondent) v. Local 112 of The International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-AFL-CIO) (Intervener). (35 employees).

4265-62-R: International Association of Machinists (Applicant) v. The De Havilland Aircraft of Canada Limited; Canadian Guards Association (Respondent) v. Local 673, International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW); Local 112, of the International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) (Intervener). (210 employees).

4266-62-R: International Association of Bridge, Structural and Ornamental Iron Workers, Local 759, Room 4, Trades and Labor Building, 212 Wilson Street, Port Arthur, Ont. (Applicant) v. Standard Prestressed Structures, Maple, Ontario (District of Rainy River) (Respondent). (12 employees).

4273-62-R: Local 721, International Association of Bridge, Structural & Ornamental Ironworkers (Applicant) v. R.M.P. Industries Ltd. (Metropolitan Toronto) (Respondent). (149 employees).

4287-62-R: Hotel & Restaurant Employees' and Bartenders International Union, Local 412 (Applicant) v. Canada Catering Company Limited (steel plant, Algoma Steel Corporation, Limited Sault Ste. Marie) (Respondent). (10 employees).

APPLICATIONS FOR TERMINATION DISPOSED OF DURING AUGUST 1962

3748-62-R: Arthur G. Thomson (Applicant) v. International Printing Pressmen & Assistants' Union of North America (Respondent). (GRANTED) (18 employees in the unit).

(Re: Sterling Market Products Ltd.,
London, Ontario).

Number of names on eligibility list		18
Number of ballots cast	18	
Number of ballots marked in favour of respondent	0	
Number of ballots marked as opposed to applicant	18	

4245-62-R: Canada Catering Co. Limited (Applicant) v. Hotel and Restaurant Employees and Bartenders International Union, Local 421 (Respondent). (DISMISSED). (10 employees).

(Re: Canada Catering Co. Limited,
The Algoma Steel Corporation, Limited
steel plant,
Sault Ste. Marie, Ontario)

4275-62-R: Strand Tavern (Applicant) v. Local 197, Hotel & Restaurant Employees & Bartenders' International Union, (Respondent). (GRANTED) (5 employees).

(Re: Strand Tavern,
Hamilton, Ontario)

4280-62-R: The Employees of Transit Mixed Concrete Limited, Berryman Avenue, St. Catharines, Ontario (Applicant) v. Canadian Brotherhood of Railway, Transport and General Workers (Respondent). (DISMISSED)

(Re: Transit Mixed Concrete Limited,
St. Catharines, Ontario)

The Board endorsed the Record as follows:

"This is an application for a declaration terminating the bargaining rights of the respondent.

The respondent was certified as bargaining agent for certain employees of Transit Mixed Concrete Limited on the 28th day of December 1960 and conciliation services were made available to the respondent and Transit Mixed Concrete Limited on the 28th day of March, 1961. A conciliation Board has not as yet been appointed nor has the Minister informed the parties

that he does not deem it advisable to appoint a conciliation Board and no collective agreement has been entered into between the respondent and Transit Mixed Concrete Limited.

The Board is satisfied that pursuant to the provisions of section 46 (1) of The Labour Relations Act, this application is untimely.

In view of these circumstances and in accordance with the provisions of section 45 of the Board's Rules of Procedure, the Board is of opinion that the applicant has failed to make a prima facie case for the remedy requested and the application is therefore dismissed."

4291-62-R: Roy Dusenbury, Lorne Smith, Bernard Lawrence (Applicants) v. General Truck Drivers' Union Local no. 419, (Affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (WITHDRAWN) (12 employees).

(Re: H. C. Stone & Sons Limited,
Toronto, Ontario)

4292-62-R: Maurice Brohm (Applicant) v. General Truck Drivers' Union, Local 938, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (WITHDRAWN) (35 employees).

(Re: Buckley Cartage Ltd.,
Toronto, Ontario)

4293-62-R: D. Lloyd Redstone (Applicant) v. General Truck Drivers' Union, Local No. 419, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (WITHDRAWN) (43 employees).

(Re: C. W. Henderson Cartage Limited,
Toronto, Ontario)

4294-62-R: Ronald Hetu (Applicant) v. General Truck Drivers' Union, Locals No. 938 and 419, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (WITHDRAWN) (45 employees).

(Re: Commercial Cartage Company,
Toronto, Ontario)

APPLICATION FOR DECLARATION CONCERNING STATUS OF SUCCESSOR

TRADE UNION DISPOSED OF DURING AUGUST 1962

4087-62-R: United Steelworkers of America (Applicant) v. Electric Reduction Company of Canada Ltd. (Respondent).
(GRANTED)

The Board endorsed the Record in part as follows:

"The Board finds that the applicant is, by reason of a merger, the successor to Port Maitland Chemical Workers' Union which was the bargaining agent for a unit of employees of the respondent defined in a collective agreement between Electric Reduction Company of Canada Ltd. and Port Maitland Chemical Workers' Union."

APPLICATIONS FOR DECLARATION THAT STRIKE UNLAWFUL DISPOSED

OF DURING AUGUST 1962

4365-62-U: Industrial Electrical Contractors Limited (Applicant) v. F. Brown, et al (Respondents). (WITHDRAWN)

4368-62-U: Joice-Sweanor Electric Ltd., 121 Cavan Street, Port Hope, Ontario (Applicant) v. Local 115, International Brotherhood of Electrical Workers 14 Garrett, Street, Kingston, Ontario (Respondent). (WITHDRAWN)

APPLICATION FOR DECLARATION THAT LOCKOUT UNLAWFUL DISPOSED

OF DURING AUGUST 1962

4109-62-U: United Brotherhood of Carpenters and Joiners of America Local Union No. 93 (Applicant) v. Canadian Johns-Manville Company Limited (Royal Trust Building project, Metcalfe Street, Ottawa) (Respondent). (DISMISSED)

(SEE INDEXED ENDORSEMENT PAGE 173)

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF DURING

AUGUST 1962

3818-62-U: Battram's Laundry Limited (Applicant) v. Irene Harrison (Respondent). (WITHDRAWN)

3836-62-U: Battram's Laundry Limited (Applicant) v. Loretta Sebastian et al (Respondents). (WITHDRAWN)

4147-62-U: Foundation Company of Canada Limited (Applicant) v. William Cottrell et al (Respondents). (WITHDRAWN)

4206-62-U: National Union of Public Service Employees
(Applicant) v. Memorial Hospital, Bowmanville) (Respondent).

The Board endorsed the Record as follows:

"On the basis of all the evidence and having regard to the representations of the parties, we are satisfied that, at their meeting of July 11, 1962, the parties made arrangements for the conduct of further negotiations. Accordingly we are unable to find that the respondent refused to bargain unless the applicant would agree to remove a certain individual from its bargaining committee."

Board Member, D.B. Archer said:

"The facts in this case are simple and undisputed. The parties are in dispute as to whether a group of employees are included in or excluded from the bargaining unit. The applicant union insists on placing a nurse in this disputed category on its bargaining committee. The company is equally insistent that no progress in bargaining can be made while she remains a member of the committee. This is an impasse that cannot be solved by granting consent to prosecute. In my opinion, only common sense on the part of both parties can resolve their difficulties. Therefore, while I would refuse leave to prosecute, I see no reason why the parties should not meet and bargain without prejudice to either one in the case before the Board involving the status of the nurses in dispute."

4357-62-U: Industrial Electrical Contractors Limited
(Applicant) v. F. Brown, et al (Respondents). (WITHDRAWN).

4364-62-U: Ontario Electrical Construction Company Limited
(Applicant) v. Edward Bell, et al (Respondents).

4370-62-U: Gordon Joseph Bradd (Applicant) v. United Gas
Limited (Respondent). (WITHDRAWN).

APPLICATIONS UNDER SECTION 65 DISPOSED OF DURING AUGUST 1962

3413-62-U: The Lumber and Sawmill Workers Union Local 2537
of the United Brotherhood of Carpenters and Joiners of
America (Complainant) v. A.J. Payette, and/or A. & L. Plywood
Limited and/or A. & L. Lafreniere Lumber (Respondents).

3680-62-U: International Association of Machinists
(Complainant) v. International Harvester Company of Canada
Ltd. (Respondent).

3844-62-U: Retail Clerks International Association
(Complainant) v. Dupont I.G.A. Foodliner (Respondent).

3937-62-U: United Electrical, Radio and Machine Workers of
America (UE) (Complainant) v. Mr. R. Morgan, Manager,
Autolav (Kingston) Limited (Respondent).

4145-62-U: United Cement, Lime and Gypsum Workers
International Union,,A.F.L. - C.I.O. - C.L.C. (Complainant)
v. Frazer Duntile Company, Limited (Respondent).

4152-62-U: United Electrical, Radio and Machine Workers of
America (UE) (Complainant) v. Mr. R. Morgan, Manager,
Autolav (Kingston) Limited (Respondent).

4170-62-U: United Cement, Lime and Gypsum Workers Inter-
national Union, A.F.L. - C.I.O. - C.L.C. (Complainant) v.
Frazer Duntile Company, Limited (Respondent).

4202-62-U: The Sudbury and District General Workers' Union
Local 902 of the International Union of Mine, Mill and
Smelter Workers (Complainant) v. New Empire Cab Company
(Respondent).

4203-62-U: The Sudbury and District General Workers' Union
Local 902 of the International Union of Mine, Mill and
Smelter Workers (Complainant) v. Queen's Taxi (Sudbury)
Limited (Respondent).

4371-62-U: Gordon Joseph Bradd (Complainant) v. United
Gas Limited (Respondent).

CERTIFICATION INDEXED ENDORSEMENT

1492-61-R: Timmins Mine and Mill Workers Union Local 241
of the International Union of Mine, Mill and Smelter Workers
(Canada) (Applicant) v. Kam Kotia Porcupine Mines Limited
(Respondent) v. United Steelworkers of America (Intervener).
(APPLICANT AND INTERVENER DISMISSED AUGUST, 1962).

On December 4, 1961 the Board endorsed the Record in part as follows:

"Following the taking of the representation vote in this matter on August 25th, 1961, the intervener filed a statement of objections and desire to make representations alleging that the applicant had violated the direction of the Registrar to the parties to refrain and desist from propaganda and electioneering during the period specified in the direction.

The evidence is that during the above-mentioned period members of the applicant wore 'membership buttons', and, in particular, that the scrutineer representing the applicant during the taking of the vote wore a 'membership button' while engaged in that capacity at the polling place. The 'membership button' in question are much larger than 'dress buttons' and the name of the applicant is inscribed thereon in large red letters on a white background. They have a high optical impact and would readily identify the wearers as supporters of the applicant union.

The Board is satisfied that the purpose of the 'membership buttons' was to publicize and impart information to observers that the wearers supported the applicant and that they were worn for the purpose of advancing the interests of the applicant in connection with the vote. Having regard to this conclusion and especially to the fact that such a button was worn in the polling place itself by the scrutineer whose actions were subject to complete control by the applicant, we find that the applicant violated the direction of the Registrar to refrain from propaganda and electioneering during the 'no propaganda' period before the day on which the vote was taken and on the day of the vote. See the Monarch Knitting Company Case, (1947) D.L.S. 7-1347.

In the result, therefore, a new representation vote will be taken of employees of the respondent in the bargaining unit defined in the Board's decision of July 24th, 1961. All employees of the respondent in the bargaining unit on the date hereof who do not voluntarily terminate their employment or who are not discharged for cause between the date hereof and the date the vote is taken will be eligible to vote."

On August 31st, 1962 the Board further endorsed the Record as follows:

"Following the taking of the representation vote in this matter on January 24th, 1962, the applicant, by a letter to the Board dated January 30th, 1962, filed a statement of objections and desire to make representations concerning the vote. The applicant stated that "we wish to object to the activity carried on by the respondent prior to the taking of the vote" and alleged "that the manager of the respondent contacted a large number of employees of Kam Kotia Porcupine Mines Limited,

contrary to the provisions of The Labour Relations Act, and did, in fact, advise men against voting for the applicant Union". The applicant requested the Board to appoint an examiner "to interview the employees of Kam Kotia Porcupine Mines Limited to inquire into the activity of Mr. Walkey, the Manager ". The applicant also requested a hearing to "present evidence supporting our allegations that there should be a new vote". A hearing in the matter was scheduled for February 27th, 1962. By letter dated February 12th, 1962, the respondent's solicitor informed the Board that the applicant's allegations were "so indefinite and incomplete that it is impossible to prepare a proper presentation of our client's case" and requested the following: "a statement of the material facts upon which the Union intends to rely in support of its allegations...the time when, and the place where the acts or allegations complained of are alleged to have occurred, and the names of the persons who are alleged to have engaged in or committed them". On February 13th, 1962, the Board requested the applicant to file the particulars with the Board forthwith. The applicant did not file the particulars.

At the request of the intervener, the hearing was adjourned to March 15th, 1962. On February 20th, 1962, the solicitor for the respondent advised the Board that he had not received the particulars as requested. On February 21st, 1962, the Board again requested the applicant to file the particulars with the Board not later than March 5th. The applicant did not comply. On March 6th the solicitors for the respondent advised the Board that they had not received the particulars from the applicant and asked the Board to "cancel the hearing to be held on March 15th, 1962, and dismiss the Mine-Mill's allegations against the Company since it is obvious that they have had sufficient time to prepare their case and since we feel that the Company has been put to enough trouble regarding this matter". By letter dated March 5th and received in the offices of the Board on March 7th, the applicant filed with the Board a list of "some of the individuals contacted by representatives of management prior to the vote held at the Kam Kotia Porcupine Mines Limited on January 24th, 1962" and suggested "that an examiner be sent to this area to talk to these men individually". On March 9th the Board by telegram, notified the applicant that if the particulars were not filed with the Board "on or before twelve o'clock noon Monday next, March twelfth, hearing this matter

scheduled for Thursday, March fifteenth will be cancelled". The same telegram informed the applicant as follows: "It is not policy of Board to appoint examiners in matters of this sort". On March 12th the applicant informed the Board by telegram as follows: "Names submitted by letter March 5 are those of men contracted by company manager prior to vote on January 24 indicating intimidation by company and constitutes violation of section 48 Labour Relations Act and demands investigation". On March 13th the Registrar notified the parties that the hearing would proceed on March 15th and that the applicant would be required "to show cause as to why the Board should entertain its allegations as contained in its letters of January 30th and March 5th because of the failure of the applicant to supply particulars as requested by the Board on February 13th and February 21st". The parties were also notified that the Board would not conduct an inquiry into the allegations of the applicant at this hearing.

At the hearing on March 15th, the representative of the applicant, Mr. Longridge, argued that anything in addition to the information contained in the applicant's letter of January 30th and its telegram of March 5th would be evidence. In addition, Mr. Longridge informed the Board that the applicant had filed all the particulars it intended to file and refused to file any further information on the ground that such information would constitute evidence. Mr. Longridge also argued that it was a proper case for the appointment of an examiner by the Board rather than for the applicant to file particulars. Following the hearing, Mr. Longridge, by letter dated March 19th, further informed the Board that the activity carried on by the respondent "took place on the property of the Company, during working hours". He again requested the appointment of an examiner to interview the employees and informed the Board that unless the Board first proceeded by way of an examiner, "we are not prepared at this time to call any of these people".

The applicant has not complied with the Board's direction to file particulars as requested by the respondent. The applicant has moreover, informed the Board that it does not intend to file further particulars. The applicant appears to base its refusal on two grounds:

(1) that any particulars requested by the respondent would be evidence; and (2) that the Board should proceed by way of an examiner to inquire into its allegations against the respondent. With respect to the first ground, the matter was determined by the Board when, upon considering the respondent's request for particulars, it directed the applicant to file the same. With respect to the second ground, the applicant was informed, both prior to and at the hearing, that it is not the policy of the Board to appoint examiners to inquire into allegations of the kind made against the respondent by the applicant. The applicant, having failed to supply the particulars as directed by the Board, despite the several opportunities afforded to it to do so, and having refused to supply such particulars, the Board will not conduct an inquiry into the objections filed by the applicant concerning the vote. Reference may be had to the Board's decision in The Boake Manufacturing Company Case, (1956) C.C.H. Canadian Labour Law Reporter, Transfer Binder '55-'59, ¶16,042, C.L.S. 76-512."

DECLARATION THAT LOCKOUT UNLAWFUL INDEXED ENDORSEMENT

4109-62-U: United Brotherhood of Carpenters and Joiners of America Local Union No. 93 (Applicant) v. Canadian Johns-Manville Company Limited (Royal Trust Building project, Metcalfe Street, Ottawa) (Respondent).
(DISMISSED AUGUST 1962)

The Board endorsed the Record as follows:

"Application for a declaration of an unlawful lockout.

Assuming, but without deciding, that the respondent called or authorized an unlawful lockout, the question arises as to whether, in the circumstances of this case, the Board should exercise its discretion and issue such a declaration.

On the evidence presently before the Board, there is no collective agreement in operation between the parties.

The last collective agreement in operation between the parties was in effect from May 1, 1959 to April 30, 1961. That agreement ceased to be in effect on April 30, 1961, as a result of a notice under the terms of the agreement given by the applicant to the respondent by letter dated January 3, 1961. There has been no request for conciliation services. As a result, section 59 of The Labour Relations Act still governs the relationship between the parties.

The dispute in this case revolves around the refusal by the respondent to assign certain work to members of the applicant. The applicant claims that by virtue of certain provisions in the collective agreement referred to above, the respondent is obliged to assign the work to members of the applicant. The respondent admits that it has not assigned the work in question to members of the applicant.

The respondent appears to be bound by a collective agreement with Local 423 of the Lathers International Union. It is admitted that members of this latter union have been employed on some of the work, but the applicant is not challenging the assignment of the work to the lathers in this application. Rather it is complaining that work has been assigned to labourers and that under the collective agreement (which expired in 1961, the terms of which the applicant says are still in effect in so far as the matter in question is concerned, by virtue of section 59 of The Labour Relations Act), the work should have been assigned to members of the applicant.

It is clear, that although this application takes the form of a declaration for an unlawful lockout, what the applicant is really seeking to do is have the Board determine who has the right to perform certain types of work. Indeed, the very nature of the evidence led by the applicant - that is, detailed evidence describing the nature of the work including a filing of certain materials used in the performance of the work as exhibits - makes this crystal clear. Assuming, but without deciding, that the actions of the respondent constituted a lockout, this fact, i.e., the real nature of the relief sought by the applicant, is a factor which must be taken into consideration in determining whether a declaration should issue.

While it is true that a complaint was lodged by the applicant under section 66 of The Labour Relations Act and that the Jurisdictional Disputes Commission refused to entertain the complaint on the ground that it lacked jurisdiction, there are other points which merit attention. In the first place, the applicant and the respondent are in the midst of negotiations for a new collective bargaining agreement. While these negotiations do not seem to have been pressed by either side, nevertheless the parties are in a position to negotiate on the matter in dispute. It seems to us that this is a matter which ought to be settled by the parties themselves under the collective bargaining process. Since the Jurisdictional Disputes Commission has declined jurisdiction, it may well be that the parties should, in the course of their negotiations, give consideration to referring such matters to some existing or new body for their final settlement.

Failing that or alternatively, it must not be forgotten that the question really involves an interpretation of a collective agreement. By section 3 of that agreement there is provision for the settlement of all disputes as to the interpretation of the agreement by way of arbitration. It is true that that collective agreement is no longer in operation, but the applicant maintains that by virtue of section 59 of The Labour Relations Act its provisions in fact govern the matters in dispute. That being the case, the remedy provided by subsection 2 of section 59, namely, arbitration, seems more appropriate to resolve a dispute such as the one in question here, rather than an application for a lock-out declaration or an application for consent to prosecute such as the applicant has filed in another proceeding before the Board.

In all these circumstances and after carefully considering the representations of the parties, the Board is of opinion that, even if the facts warrant a finding that the respondent called or authorized an unlawful lockout (and the Board makes no finding on this point one way or the other), this is not a case in which the Board, in the exercise of its discretion, ought to issue a declaration."

PART 2

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TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

Type of Application	Number of Applications Filed		
	Aug. 1962	1st 5 months of 62-63	fiscal year 61-62
I Certification	48	325	336
II Declaration Terminating Bargaining Rights	10	32	23
III Declaration of Successor Status	7	9	1
IV Conciliation Services	96	607	516
V Declaration that Strike Unlawful	1	25	19
VI Declaration that Lockout Unlawful	1	5	1
VII Consent to Prosecute	9	48	49
VIII Complaint of Unfair Practice in Employment (Section 65)	7	58	61
IX Miscellaneous	<u>4</u>	<u>12</u>	<u>11</u>
TOTAL	<u>183</u>	<u>1121</u>	<u>1017</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	Number		
	Aug. 1962	1st 5 months of 62-63	fiscal year 61-62
Hearings & Continuation of Hearings by the Board	63	519	410

TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

Type of Application	Aug. 1962	<u>1st 5 months of fiscal year</u>	
		<u>62-63</u>	<u>61-62</u>
I Certification	56	352	333
II Declaration Terminating Bargaining Rights	8	32	23
III Declaration of Successor Status	1	1	1
IV Conciliation Services	76	575	549
V Declaration that Strike Unlawful	2	25	18
VI Declaration that Lockout Unlawful	1	4	1
VII Consent to Prosecute	9	37	46
VIII Complaint of Unfair Practice in Employment (Section 65)	10	62	58
IX Miscellaneous	-	4	10
TOTAL	<u>163</u>	<u>1092</u>	<u>1039</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD BY TYPES AND BY DISPOSITION

*Employees

I Disposition	Aug 1st 5 mos fiscal yr.			Aug 1st 5 mos fiscal yr.		
	'62	62-63	61-62	'62	62-63	61-62
<u>Certification</u>						
Certified	36	236	211	1249	6426	6102
Dismissed	15	77	82	2996	6176	3625
Withdrawn	<u>5</u>	<u>39</u>	<u>40</u>	<u>570</u>	<u>1300</u>	<u>877</u>
TOTAL	<u>56</u>	<u>352</u>	<u>333</u>	<u>4815</u>	<u>13902</u>	<u>10604</u>

II Termination of Bargaining Rights

Terminated	2	21	9	23	475	170
Dismissed	2	6	13	43	147	258
Withdrawn	<u>4</u>	<u>5</u>	<u>1</u>	<u>135</u>	<u>187</u>	<u>-</u>
TOTAL	<u>8</u>	<u>32</u>	<u>23</u>	<u>201</u>	<u>809</u>	<u>428</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S23 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

		Number of appl'ns dis. of		
		Aug.	1st 5 months	fiscal year
		'62	62-63	61-62
III	<u>Conciliation Services*</u>			
	Referred	70	516	521
	Dismissed	2	12	8
	Withdrawn	<u>4</u>	<u>47</u>	<u>20</u>
	TOTAL	<u>76</u>	<u>575</u>	<u>549</u>
IV	<u>Declaration that</u> <u>Strike Unlawful</u>			
	Granted	-	6	1
	Dismissed	-	7	2
	Withdrawn	<u>2</u>	<u>12</u>	<u>15</u>
	TOTAL	<u>2</u>	<u>25</u>	<u>18</u>
V	<u>Declaration that</u> <u>Lockout Unlawful</u>			
	Granted	-	-	-
	Dismissed	1	4	1
	Withdrawn	<u>-</u>	<u>-</u>	<u>-</u>
	TOTAL	<u>1</u>	<u>4</u>	<u>1</u>
VI	<u>Consent to</u> <u>Prosecute</u>			
	Granted	-	9	9
	Dismissed	1	6	6
	Withdrawn	<u>8</u>	<u>22</u>	<u>31</u>
	TOTAL	<u>9</u>	<u>37</u>	<u>46</u>

*Includes applications for conciliation services re unions claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED OF
BY THE BOARD

	Number of Votes		
	Aug. '62	1st 5 months of fiscal yr. 62-63	61-62
<u>* Certification After Vote</u>			
pre-hearing vote	4	17	23
post-hearing vote	1	9	19
Ballots not counted	-	2	-
 <u>Dismissed After Vote</u>			
pre-hearing vote	1	10	10
post-hearing vote	1	23	25
Ballots not counted	-	-	-
 TOTAL	 <u>7</u>	 <u>62</u>	 <u>77</u>

* Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF BY
THE BOARD

	Number of Votes		
	Aug. '62	1st 5 months of fiscal yr. 62-63	61-62
* Respondent Union Successful	1	5	2
Respondent Union Unsuccessful	-	5	8
 TOTAL	 <u>1</u>	 <u>10</u>	 <u>10</u>

* In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer, the incumbent union is thus the respondent.

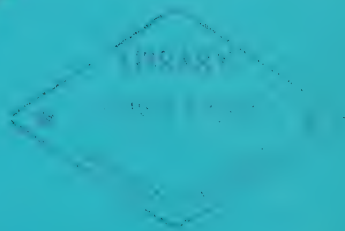
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ONTARIO

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ONTARIO LABOUR RELATIONS BOARD



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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD DURING SEPTEMBER 1962

Bargaining Agents Certified During August
No Vote Conducted

2813-61-R: Building Service Employees' International Union
Local 204 (Applicant) v. York University (Respondent).

Unit: "all employees of the respondent in Metropolitan
Toronto engaged in caretaking and maintenance, save and
except foremen, persons above the rank of foreman, and
office staff." (7 employees in the unit).

The Board endorsed the Record as follows:

"In this case an allegation was made by one, Moore, an employee of the respondent, that Mrs. M. Welsh, a fellow employee, paid no money on her own behalf, when she joined the applicant. The allegation is that the union organizer, Bruno, paid the dollar toward her initiation fee. Several hearings were held by the Board on this matter at which evidence was heard from all persons having any knowledge on the matter in issue. In the final analysis the credibility of the witnesses is the key point. Mrs. Welsh testified in heated terms that she did not pay. The union organizer was equally emphatic that she handed him a dollar bill. There were three other persons present but all admitted that they were not in a position to see whether money in fact changed hands and/or that they were not paying too close attention at the material time.

The evidence of Moore, who made the initial charge of non-payment, was far from satisfactory in many respects. On those aspects of the case which involved his activities on behalf of the union and his relationship with his employer, he was most reluctant to answer the questions put to him by counsel for the union. His answers, when given, were evasive and in our opinion, untruthful. On at least one occasion he completely changed his testimony from an admission to a denial. It is perhaps not without interest to note that although he initiated the charge, he did not turn up at the final hearings to make any representations.

The evidence of Collis is not helpful. We do not believe that he intended to mislead the Board in any way. However, his recollection was poor and we are unable to place much weight on his testimony as to what actually occurred.

Again, we were not overly impressed with the evidence of Ellul. He was far too eager a witness and although he claimed to remember everything, his recollection proved to be faulty in a number of aspects. Again, however, we do not think he was trying to mislead the Board deliberately but, in our opinion, his obvious enthusiasm for the contentions of the applicant, led him to make some rather extravagant statements. On the other hand, we have no reason to disbelieve the evidence he gave with respect to what occurred in the witness room between Bruno and Moore. In other words, we do not believe that his enthusiasm would carry him to the extent of being a party to making up a false story.

Mrs. Welsh, in giving her evidence in chief, was a most reluctant witness. Her evidence was vague and general and she was not even certain that she got a receipt from Bruno. In cross-examination, like Moore, she was most unsatisfactory in answering questions with respect to Moore's relationship with his employer or his activities on behalf of the union. She was most positive, for example, in her denial that she asked Moore for a dollar. "Why should I?" she said, "I have money - I did not need to." On her recall on a subsequent day she said she didn't deny it, but did not remember. On this and other matters involving Moore, we agree with the submission of counsel for the applicant that Mrs. Welsh was clearly trying to protect Moore and her testimony on these matters is far from credible.

Again, having regard to the personal friendship which existed between Moore and Mrs. Welsh, and to the fact that they worked on the same shift, even if not in the same building, we find it difficult to accept the statements of Moore or Mrs. Welsh (which, be it noted, are themselves contradictory), that, according to Mrs. Welsh she did not discuss the dollar payment with Moore at any time until after the Labour Board man called, or, according to Moore, he did not discuss the dollar payment with Mrs. Welsh after the first hearing before the Board or, indeed, at any time after the day the signing up took place. Ignoring for the moment the question as to whether the dollar was paid, we are convinced that the matter would have been discussed by them immediately following the first hearing.

Two other points might be noted about Mrs. Welsh's testimony. Her evidence with respect to not carrying money on her person while working was, when first given, very strong in its terms. But at the end of her testimony, on recall, she ended up by saying "I don't think I carried any money". Again, Bruno testified that after he made the statement about offering to pay the dollar, Mrs. Welsh said, "Never mind, I'll join". Mrs. Welsh when asked if she made that statement, does not, as one would expect from her previous testimony and the manner in which it was given, deny making it. She states simply, she does not remember making it, a practice she resorted to when faced with a number of statements of other witnesses.

In contradiction to all the other witnesses, Bruno, the union organizer, told a straightforward, coherent story, and there is nothing in his evidence or in the manner in which he gave it, which leads us to disbelieve him. As noted above, we accept Ellul's corroboration of Bruno's testimony with respect to the incident in the witness room.

In all the circumstances and having regard to the demeanour of the witnesses and to the specific and general nature of their testimony, we are satisfied that Bruno received a dollar from Mrs. Welsh.

Before leaving this aspect of the case, we cannot refrain from pointing out that the delay occasioned by the necessity of holding a number of hearings over a period of some months, together with the time taken to render a decision in a most difficult case, must in part, at least, be attributed to the union organizer. Had it not been for his foolish statement about offering to pay Mrs. Welsh's dollar, even though made jokingly, as we believe, there would have been no occasion for Moore to make his allegation. In this case it certainly cannot be said that the organizer acted in a manner that one would expect of a reasonably prudent union official or agent.

Having regard to the evidence before the Board as to the actions of representatives of the documents filed in opposition to the application and in their actual preparation, it is not necessary to seek the confirmatory evidence of a representation vote in this case."

3178-62-R: Retail Clerks International Association
(Applicant) v. Bassins Food Markets Limited (Respondent).

Unit 1: "all employees of the respondent at its warehouse in Metropolitan Toronto, save and except office staff, persons employed for not more than 24 hours per week and students hired for the school vacation period."
(7 employees in the unit).

3315-61-R: Ready-Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers Local Union No. 230, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America
(Applicant) v. Material Trucking Company Limited (Respondent).

Unit: "all employees of the respondent working at or out of Caledon, save and except foremen, persons above the rank of foreman and office and sales staff."
(12 employees in the unit).

4005-62-R: The National Union of Public Service Employees
(Applicant) v. The Dysart Municipal Telephone System
(Respondent).

Unit: "all office employees of the respondent at Haliburton, save and except manager and persons above the rank of manager."
(3 employees in the unit).

3316-62-R: Ready-Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers Local Union No. 230, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America
(Applicant) v. C. Smythe for Sand Limited (Respondent).

Unit: "all employees of the respondent at its Caledon Pit, Caledon, save and except foremen, persons above the rank of foreman, office and sales staff and farm employees."
(20 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 198)

4211-62-R: International Hod Carriers', Building and Common Labourers' Union of America, Local 183
(Applicant) v. Dundee Paving Limited (Respondent).

Unit: "all construction labourers of the respondent employed in Metropolitan Toronto, save and except non-working foremen and persons above the rank of non-working foreman."
(5 employees in the unit).

4259-62-R: Restaurant, Cafeteria & Tavern Employees Union, Local 254 of the Hotel & Restaurant Employees & Bartenders' International Union
(Applicant) v. Nationwide- Industrial Food Services (Vendomatic Services Limited) (Respondent).

Unit: "all employees of the respondent at the Lucas-Rotax Ltd. Plant, Eglinton Ave. East, Scarborough, save and except assistant managers, persons above the rank of assistant manager and office staff." (3 employees in the unit).

4295-62-R: Bakery & Confectionery Workers' International Union of America, Local 181 (Applicant) v. Crupi Brothers Bakery (Respondent).

Unit: "all employees of the respondent in Toronto, save and except foremen, persons above the rank of foreman, office staff and driver-salesmen."
(14 employees in the unit).

The Board endorsed the Record as follows:

"Notices of the date and place of the hearing held herein were given to all parties and the application came on for hearing at Toronto on August 21st, 1962. No one appeared at this hearing for or on behalf of the respondent.

The respondent did not file a reply to the application nor, despite a number of requests by the Registrar, did it file specimen signatures for, or a list of, its employees in the proposed bargaining unit as of the date of the application. While after the hearing on August 23rd, 1962, the Board received a letter from the respondent's solicitor containing the names of certain employees, this letter did not contain the list of employees and specimen signatures as required by the Board. The Board's Rules of Procedure require the respondent employer to file a reply and specimen signatures for, and a list of employees who would fall within the description of the proposed bargaining unit on the date of the application. As a result of the respondent's continued failure to supply the Board with this material the Board authorized and instructed one of its Examiners to attend on the respondent and to examine its records for the purpose of obtaining this information. As a result of the Examiner attending on the respondent a list of employees and specimen signatures was provided to the Examiner and supplied to the Board.

On August 28th, 1962, the Board received a letter from the respondent's solicitor stating that the respondent opposed the certification of the applicant and requested a further hearing. The respondent gives no explanation whatever as to why it did not place its case before the Board at the hearing on August 21st.

It is obvious that the respondent had every opportunity to attend and participate in the hearing held on August 21st and to make whatever representations and call whatever evidence that was proper and material to the case. However, for reasons best known to itself, the respondent apparently chose to ignore these proceedings entirely. If the respondent wished to place its case before the Board it was incumbent upon it to do so at the hearing held for that purpose. It is difficult, in the circumstances of this case, to comprehend how the respondent can seriously ask the Board to hold another hearing. For reasons which are apparent the respondent's request is denied."

4298-62-R: Restaurant, Cafeteria & Tavern Employees Union, Local 254, Hotel & Restaurant Employees & Bartenders' International Union (Applicant) v. The Toll House Ltd. (Respondent).

Unit: "all employees of the respondent employed at the Scarborough Township Building, 2001 Eglinton Avenue East, at Scarborough, save and except chef-manager and office staff." (4 employees in the unit).

4326-62-R: Restaurant, Cafeteria & Tavern Employees Union, Local 254, of the Hotel & Restaurant Employees & Bartenders' International Union (Applicant) v. The Toll House Ltd. (Respondent).

Unit: "all employees of the respondent employed at the Philco Corporation of Canada Ltd. plant, Don Mills Road in the Township of North York, save and except chef-manager and office staff." (5 employees in the unit).

4331-62-R: Office Employees International Union, Local 343, (Applicant) v. International Union United Automobile, Aircraft, Agricultural Implement Workers of America (UAW), Local 199 (Respondent).

Unit: "all office employees of the respondent in St. Catharines, save and except office manager and persons above the rank of office manager." (2 employees in the unit).

4347-62-R: District 50, United Mine Workers of America (Applicant) v. Canadian Hardwood Company Limited (Respondent).

Unit: "all employees of the respondent at Casselman, save and except foremen, persons above the rank of foreman, office and sales staff." (40 employees in the unit).

4375-62-R: Sheet Metal Workers' International Association, Local Union 473 (Applicant) v. United Fabricators Limited (Respondent).

Unit: "all employees of the respondent employed at its plant at London, save and except foremen, persons above the rank of foreman, office and sales staff and students hired for the school vacation period."
(12 employees in the unit).

4378-62-R: International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 141, Warehousemen and Miscellaneous Drivers (Applicant) v. Flanagan Storage & Warehouse Limited (Respondent).

Unit: "all employees of the respondent at London, save and except foremen, persons above the rank of foreman, office and sales staff, students hired for the school vacation period and persons regularly employed for not more than 24 hours per week." (2 employees in the unit).

4388-62-R: District 50, U.M.W.A. (Applicant) v. Coca-Cola Ltd. (Respondent).

Unit: "all employees of the respondent at Windsor, save and except foremen and special salesmen, persons above the ranks of foreman and special salesman, and office staff."
(60 employees in the unit).

4389-62-R: Ready Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers, Local Union No. 230, of the International Brotherhood of Teamsters (Applicant) v. The Foundation Co. of Canada Limited (Respondent) v. International Union of Operating Engineers, Local 793 (Intervener).

Unit: "all truck drivers in the employ of the respondent in Metropolitan Toronto, save and except supervisors and persons above the rank of supervisor." (2 employees in the unit).

4390-62-R: International Union of Operating Engineers, Local 944 (Applicant) v. Kayser-Roth of Canada Limited (Respondent).

Unit: "all stationary engineers employed by the respondent in the boiler room of its plant at London, save and except chief stationary engineer and persons regularly employed for not more than twenty-four hours per week." (3 employees in the unit).

4394-62-R: Bakery & Confectionery Workers International Union of America, Local 181 (Applicant) v. Olympic Bakery Ltd. (Respondent).

Unit: "all employees of the respondent at Toronto, save and except supervisors, foremen, persons above the rank of foreman, office staff and driver-salesmen." (18 employees in the unit).

4406-62-R: United Steelworkers of America (Applicant) v. Air Liquide (Respondent).

Unit: "all employees of the respondent at Sudbury and Copper Cliff, save and except foremen, chief shippers, persons above the ranks of foreman and chief shipper, office and sales staff and students hired for the school vacation period." (7 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

4408-62-R: United Steelworkers of America (Applicant) v. Air Liquide (Respondent).

Unit #1: "all employees of the respondent at Hamilton, save and except foremen and chief shipper-storekeepers, persons above the ranks of foreman and chief shipper-storekeeper, office and sales staff and students hired for the school vacation period." (34 employees in the unit).

Unit #2: "all employees of the respondent at Niagara Falls, save and except foremen and chief shipper-storekeepers, persons above the ranks of foreman and chief shipper-storekeeper, office and sales staff and students hired for the school vacation period." (4 employees in the unit).

4409-62-R: Restaurant, Cafeteria & Tavern Employees Union, Local 254 of the Hotel & Restaurant Employees & Bartenders' International Union (Applicant) v. The Toll House Limited (Respondent).

Unit: "all employees of the respondent employed at the Canadian Arsenals Limited, (Instrument & Radar Division) 651 Warden Avenue, Scarborough, save and except Chef-Manager and Office-staff." (3 employees in the unit).

4431-62-R: Warehousemen and Miscellaneous Drivers Local Union No. 419, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Lyons Furniture Limited (Respondent).

Unit: "all employees of the respondent employed at or working out of its warehouse at 365 Weston Road, Toronto, save and except foremen, persons above the rank of foreman, office and sales staff." (34 employees in the unit).

4432-62-R: District 50, United Mine Workers of America (Applicant) v. Casselman Creamery Limited (Respondent).

Unit: "all employees of the respondent at Casselman, save and except foremen, persons above the rank of foreman, office staff and students employed during the school vacation period." (19 employees in the unit).

4448-62-R: International Union of United Brewery, Flour, Cereal, Soft Drink & Distillery Workers of America (Applicant) v. Brewers' Warehousing Company Limited (Respondent).

Unit: "all employees of the respondent employed at its warehouse and retail stores in Capreol, save and except managers or foremen, persons above the rank of manager or foreman and office staff." (4 employees in the unit).

4449-62-R: International Association of Machinists (Applicant) v. Powco Steel Products Limited (Respondent).

Unit: "all employees of the respondent employed at Metropolitan Toronto, save and except foremen, those above the rank of foreman, draughtsmen, office and sales staff." (83 employees in the unit).

4451-62-R: The Canadian Union of Operating Engineers (Applicant) v. The Dominion of Canada General Insurance (Respondent).

Unit: "all stationary engineers of the respondent employed at its boiler room at 165 University Avenue, Toronto, save and except chief engineer." (4 employees in the unit).

4478-62-R: International Union of Operating Engineers, Local 793 (Applicant) v. Hewitson Construction Company Limited (Respondent).

Unit: "all employees of the respondent employed in the District of Thunder Bay engaged in the operation of cranes, shovels, bulldozers and similar equipment and those primarily engaged in the repairing and maintaining of same, save and except non-working foremen and persons above the rank of non-working foreman." (17 employees in the unit).

The Board endorsed the Record in part as follows:

"On november 19th, 1957, the Board certified Lumber & Sawmill Workers' Union, Local 2693, United Brotherhood of Carpenters & Joiners of America as the bargaining agent of employees of the respondent affected by this application. At the hearing in the instant matter the Board was informed that Lumber & Sawmill Workers' Union, Local 2693, on March 4th, 1958, gave written notice to the respondent of its desire to bargain and took no further action in that respect. On the basis of all the evidence before the Board we are satisfied that Lumber & Sawmill Workers' Union, Local 2693 did not bargain with the respondent on behalf of the employees of the respondent for whom it was certified as bargaining agent. In these circumstances

the Board finds that Lumber & Sawmill Workers' Union, Local 2693, United Brotherhood of Carpenters & Joiners of America, must be taken to have abandoned the bargaining rights it acquired under the Board's certificate of November 19th, 1957. Accordingly the present application is properly before the Board."

The Board further endorsed the Record in part as follows:

"The Board notes the agreement of the parties that welders and employees engaged in the operation of asphalt spreaders, graders, front-end and/or overhead loaders and rollers are included in the bargaining unit."

4480-62-R: United Steelworkers of America (Applicant) v. Siscoe Metals of Ontario Ltd. (Respondent).

Unit: "all employees of the respondent in Haultain and Nicol Townships in the Gowganda area, save and except shift bosses, foremen, assistant chief chemists, persons above the ranks of shift boss, foreman and assistant chief chemist, office staff, laboratory staff, employees in the engineering and geological departments, security guards, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (82 employees in the unit).

4488-62-R: International Association of Machinists (Applicant) v. Toledo Scale Company of Canada, Limited (Respondent).

Unit: "all employees of the respondent at its Toronto District office in Metropolitan Toronto, save and except service manager, persons above the rank of service manager and office and sales staff." (19 employees in the unit).

4490-62-R: International Association of Machinists (Local Lodge 1150) (Applicant) v. Crane Canada Limited (Respondent).

Unit: "all employees of the respondent in its Steelware Division at Stratford, save and except foremen, persons above the rank of foreman, office, technical and sales staff and employees employed in the engineering and laboratory departments." (59 employees in the unit).

Certified Subsequent to Pre-Hearing Vote

4225-62-R: International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) (Applicant) v. Comet Engines Limited (Respondent).

Unit: "all employees of the respondent in the Township of Toronto, save and except foremen, persons above the rank of foreman, and office staff." (39 employees in the unit).

Number of names on revised eligibility list		32
Number of ballots cast	32	
Number of spoiled ballots	1	
Number of ballots segregated (not counted)	2	
Number of ballots marked in favour of applicant	22	
Number of ballots marked as opposed to applicant	7	

Certified Subsequent to Post-Hearing Vote

3178-62-R: Retail Clerks International Association
(Applicant) v. Bassins Food Markets Limited (Respondent).

Unit 2: "all employees of the respondent at its stores in Metropolitan Toronto, save and except store managers, persons above the rank of store manager, office staff and students hired for the school vacation period."
(56 employees in the unit).

Board Member, H.F. Irwin dissented and said:

"I dissent. In the circumstances of this case, I would have the appropriate bargaining unit to be all employees of the respondent in its retail stores in Metropolitan Toronto and at Ajax, save and except store managers, persons above the rank of store manager, office staff and students hired for the school vacation period. As the applicant union has less than forty-five (45%) per cent of the employees in this unit as members, I would have dismissed the application."

Number of names on revised eligibility list		49
Number of ballots cast	48	
Number of spoiled ballots	1	
Number of segregated ballots (not counted)	1	
Number of ballots marked in favour of applicant	40	
Number of ballots marked as opposed to applicant	6	

3734-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local Union # 837 (Applicant)
v. Newman Bros. Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent working in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen, persons above the rank of non-working foreman."
(62 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

Number of names on revised eligibility list		63
Number of ballots cast	61	
Number of ballots marked in favour of applicant	55	
Number of ballots marked as opposed to applicant	6	

3954-62-R: International Hod Carriers' Building and Common Laborers' Union of America, Local 837, Hamilton, Ontario (Applicant) v. Cameron and Phin Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent working in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman."
(21 employees in the unit).

Number of names on revised eligibility list		9
Number of ballots cast	9	
Number of ballots marked in favour of applicant	9	
Number of ballots marked as opposed to applicant	0	

4124-62-R: Brotherhood of Painters, Decorators and Paperhangers of America Local 1842 (Applicant) v. Sudbury Paint & Wallpaper Co. Ltd. (Respondent).

Unit: "all painters, decorators, paperhangers and their apprentices of the respondent employed at or working out of Sudbury, save and except non-working foremen, persons above the rank of non-working foreman and office staff."
(15 employees in the unit).

Number of names on revised eligibility list		15
Number of ballots cast	15	
Number of ballots marked in favour of applicant	12	
Number of ballots marked as opposed to applicant	3	

Applications for Certification Dismissed No Vote Conducted

3314-61-R: Ready-Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers Local Union 230, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Conn Smythe Contracting Ltd. (Respondent). (1 employee).

The Board endorsed the Record as follows:

"The Board finds that at the time of the application, there was only one employee in any unit which the Board would find to be appropriate. Having regard to the provisions of section 6 (1) of The Labour Relations Act, the application must be dismissed."

4122-62-R: Hewetson's Employees Shop Union (Applicant) v. Hewetson Shoes Limited (Respondent) v. Boot and Shoe Workers Union, affiliated with the American Federation of Labor and Congress of Industrial Organizations (Intervener). (164 employees in the unit).

The Board endorsed the Record as follows:

"Although the applicant has requested leave to withdraw its application in this matter, the Board in accordance with its usual practice dismisses the application."

4182-62-R: Food Handlers Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. London Food City (Respondent).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for a bargaining unit of the respondent's employees described as follows:

"all employees of the respondent in their store in Westminster Township, Ontario save and except meat department employees, store manager, persons above the rank of store manager, and students employed in off school hours and during school vacation period."

For the reasons outlined by the Board in an earlier application for certification brought by the same applicant for a bargaining unit of the respondent's employees in the meat department (Board File No. 4129-62-R), we are unable to find that the unit as described by the applicant is appropriate for collective bargaining.

Having regard to the Board's decision in the earlier application (Board File No. 4129-62-R), we find that apart from the bargaining unit of employees in the meat department there are two other bargaining units of the respondent's employees appropriate for collective bargaining namely,

- A. "all employees of the respondent's stores in Westminster Township, save and except meat department employees, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (hereinafter referred to as bargaining unit "A") (15 employees in the unit).
- B. "all employees of the respondent's stores in the Township of Westminster employed for not more than 24 hours per week and students hired for the school vacation period." (hereinafter referred to as bargaining unit "B") (9 employees in the unit).

The Board is satisfied on the basis of all the evidence before it that less than forty-five per cent of the employees of the respondent who would be included in bargaining unit "A" at the time the application was made were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure.

The application in so far as it relates to bargaining unit "A" is, therefore, dismissed."

4243-62-R: Welders, Public Garage Employees Motor Mechanics & Allied Workers Local Union 847 (Applicant) v. Maxwell Church Holdings Limited (Respondent). (4 employees).

The Board endorsed the Record as follows:

"The Board is satisfied on the basis of all the evidence before it that less than forty-five per cent of the employees of the respondent in any bargaining unit which the Board would find appropriate were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure."

4359-62-R: Amalgamated Plant Guards, Local 1958, United Plant Guard Workers of America (Applicant) v. The Corporation of the County of Essex (Respondent). (29 employees).

4440-62-R: Lumber & Sawmill Workers Union, Local 2693 of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. George Peniuk (Respondent). (10 employees).

The Board endorsed the Record as follows:

"The applicant having failed in file a declaration concerning membership documents in Form 9 in accordance with the provisions of section 6 of the Board's Rules of Procedure, this application is therefore dismissed."

4459-62-R: International Hod Carriers' Building and Common Laborers' Union of America, Local 837, Hamilton, Ontario (Applicant) v. R. Timms Construction Company and Engineering Limited (Respondent). (3 employees).

The Board endorsed the Record as follows:

"It is clear from the signed collective agreement dated October 5, 1959, between the applicant and the respondent, together with the telegram from the applicant to the respondent dated April 28, 1961, the letter from the respondent to the applicant dated May 2, 1961, the letter from the applicant to the respondent dated January 5, 1962, and the letter from the respondent to the applicant dated January 16, 1962, that the bargaining rights which the applicant had for the Building and Common Laborers of the respondent are still in force. It is also clear that the applicant gave due notice to the respondent in January of 1962 in accordance with the provisions of the said collective agreement. In these circumstances there is no need for the Board to issue a certificate since the applicant already possesses bargaining rights for the Building and Common Laborers of the respondent in the Counties of Lincoln, Haldimand and Welland. Attention is directed to the Loblaw Groceries Case, (1944) D.L.S. 7-1115.

Accordingly these proceedings are dismissed."

Certification Dismissed subsequent to Pre-Hearing Vote

4151-62-R: International Union of Mine Mill & Smelter Workers (Canada) (Applicant) v. Madsen Red Lake Mines Limited (Respondent) v. United Steelworkers of America (Intervener).

VOTING CONSTITUENCY: "all employees of the respondent in the Townships of Baird and Heyson, save and except shift bosses or foremen, persons above the rank of shift boss or foreman, office staff, persons in the engineering department, the geologist, the assistant geologist, head sampler, security guards and night watchmen, students hired for the summer school vacation period, and persons regularly employed for not more than 24 hours per week." (355 employees in the unit).

Number of names on revised eligibility list		277
Number of ballots cast		235
Number of spoiled ballots	4	
Number of ballots marked in favour of applicant	111	
Number of ballots marked in favour of intervener	120	

4301-62-R: United Cement, Lime & Gypsum Workers International Union (Applicant) v. Domtar Construction Materials Ltd. (Respondent) v. District 50, U.M.W.A. (Intervener).

VOTING CONSTITUENCY: "all employees at the respondent's Caledonia Plant, save and except foremen, persons above the rank of foreman, office staff, watchmen, quality control supervisors, employees in the Research and Development Unit and the Central Quality Control Unit and students hired for the school vacation period." (231 employees in the constituency).

Number of names on revised eligibility list		216
Number of ballots cast		206
Number of spoiled ballots	2	
Number of ballots marked in favour of applicant	93	
Number of ballots marked in favour of intervener	111	

Certified Subsequent to Post-Hearing Vote

3450-62-R: International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers Local 141 Warehousemen and Miscellaneous Drivers (Applicant) v. D. H. Howden & Company Limited (Respondent).

Unit: "all employees of the respondent at London, save and except foremen, persons above the rank of foreman and office staff." (44 employees in the unit).

Number of names on revised eligibility list		43
Number of ballots cast	43	
Number of ballots marked in favour of applicant	17	
Number of ballots marked as opposed to applicant	26	

3831-62-R: Retail, Wholesale and Department store Union (Applicant) v. Wonder Bakeries Limited (Respondent).

Unit: "all employees of the respondent at its depot in Cornwall, save and except foremen, route supervisors, persons above the rank of foreman and route supervisor, office staff, persons regularly employed for not more than 24 hours per week, and students hired for the school vacation period."

On August 20th, 1962, in the Direction for the taking of the vote the Board endorsed the Record in part as follows:

"On the evidence before us we find that Marcel Lauzon does not exercise managerial functions and is therefore included in the bargaining unit."

Board Member D.B. Archer dissented and said:

"I dissent. I would have found that Marcel Lauzon exercises managerial functions. As this person prepared the petition I would have given no weight to the petition and would have granted outright certification to the applicant."

Number of names on eligibility list		16
Number of ballots cast	16	
Number of ballots marked in favour of applicant	2	
Number of ballots marked as opposed to applicant	16	

4105-62-R: The Canadian Union of Operating Engineers (Applicant) v. Dominion Forge Company (A Division of Carman Industries Limited) (Respondent) v. The International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the American Federation of Labour and the Congress of Industrial Organizations, an Unincorporated Voluntary Association, Local 195 (Intervener).

Unit: "all stationary engineers, firemen and their helpers employed by the respondent in its power house at Windsor, save and except the chief engineer."
(6 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

The Board endorsed the Record in part as follows:

"Having regard to the agreement of the parties, the Board declares that the hoisting engineer is an employee of the respondent included in the bargaining unit."

Number of names on eligibility list		6
Number of ballots cast	6	
Number of ballots marked in favour of applicant	3	
Number of ballots marked in favour of intervener	3	

4183-62-R: Technicians' and Clerical Workers' Union, Local 254 (Applicant) v. Telephone Answering Service (Kingston) Limited (Respondent).

Unit: "all employees of the respondent at Kingston, save and except supervisors and persons above the rank of supervisor." (11 employees in the unit).

Number of names on revised eligibility list		10
Number of ballots cast	10	
Number of ballots marked in favour of applicant	2	
Number of ballots marked as opposed to applicant	8	

Applications for Certification Withdrawn

3763-62-R: Retail Clerks International Association (Applicant) v. Bassin's Food Markets Limited (Metropolitan Toronto) (Respondent). (60 employees).

4210-62-R: International Association of Bridge, Structural & Ornamental Iron Workers Local 721 (Applicant) v. Canadian Pittsburgh Industries Ltd. (Respondent). (51 employees)

APPLICATIONS FOR TERMINATION DISPOSED OF DURING SEPTEMBER 1962

2466-61-R: Thos. E. Hawkins, (Applicant) v. Retail, Wholesale and Department Store Union Local 440 (Respondent). (DISMISSED). (56 employees).

(Re: Chas. Yeates & Company Ltd.,
Royal Dairy,
Guelph, Ontario)

The Board endorsed the Record as follows:

"Having regard to all the evidence before it, the Board finds that there is no subsisting collective agreement between the respondent and Charles Yeats & Company Limited within the meaning of The Labour Relations Act. See in this connection the decision of the Board in the Canada Machinery Co. Case (1961) C.C.H. Canadian Labour Law Reporter, ¶16,194, C.L.S. 76-729. Accordingly the application for a declaration that the respondent no longer represents the employees in the bargaining unit for which it is the bargaining agent is properly before the Board.

Having regard to the evidence presented at the hearing as to the events which followed the origination, preparation and circulation of the statement of desire filed in support of the application, the Board is not prepared to accept that statement as a signification within the meaning of subsection 3 of section 43 of The Labour Relations Act.

The application is accordingly dismissed."

3766-62-R: Thomas Ansara and Enzo Colameco (Applicants) v. Local 634 of The International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada (Respondent). (GRANTED). (3 employees in the unit).

(Re: Timmins Theatres Limited,
Timmins, Ontario)

Number of names on eligibility list		3
Number of ballots cast	3	
Number of ballots marked in favour of respondent	1	
Number of ballots marked as opposed to respondent	2	

4236-62-R: Gordon Haworth (Applicant) v. Toronto Newspaper Guild (Respondent) v. The Globe and Mail Limited (Intervener). (137 employees). (GRANTED).

(Re: The Globe and Mail Limited,
Display and Classified Advertising Departments,
Toronto, Ontario)

Number of names on revised eligibility list		118
Number of ballots cast	118	
Number of spoiled ballots	1	
Number of segregated ballots (not counted)	2	
Number of ballots marked in favour of respondent	42	
Number of ballots marked as opposed to respondent	73	

4391-62-R: United Fruit Distributors (Hamilton) Limited (Applicant) v. Retail, Wholesale and Department Store Union (Respondent). (GRANTED). (12 employees).

(Re: United Fruit Distributors (Hamilton) Limited, Hamilton, Ontario)

The Board endorsed the Record as follows:

"The respondent was certified as bargaining agent for certain employees of the applicant on October 27th, 1961 and gave notice to the applicant under section 11 of The Labour Relations Act by letter dated November 17th, 1961. The Board finds that since November 17th, 1961 and up to September 4th, 1962 the respondent has failed to commence to bargain with the applicant. At the hearing in this matter, the respondent had no representations to make to the Board.

Accordingly, pursuant to subsection 2 of section 45 of The Labour Relations Act, the Board declares that the respondent no longer represents the employees of the applicant, United Fruit Distributors (Hamilton) Limited for whom it has heretofore been the bargaining agent."

4512-62-R: H.R. Smith, H. Speers, Eguene Fugard, Robert Fugard and William Robertson (Applicants) v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 141, Warehousemen and Miscellaneous Drivers (Respondent). (WITHDRAWN). (5 employees).

(Re: M.F. Jones Transport Limited, St. Thomas, Ontario).

APPLICATION UNDER SECTION 79 (2) OF THE ACT

3264-61-M: Niagara Falls Civic Employees Local Union 133, of the National Union of Public Employees (Applicant) v. The Corporation of the City of Niagara Falls (Respondent). (WITHDRAWN).

APPLICATION FOR EARLY TERMINATION OF COLLECTIVE AGREEMENT

4421-62-M: International Union, United Automobile, Aerospace, Agricultural Implement Workers of America (Applicant) v. Duplate Canada Limited (Oshawa Division) (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The parties having jointly applied for an early termination of the collective agreement between them pursuant to section 39(3) of The Labour Relations Act, the Board consents to the early termination by the parties of the collective agreement made and entered into the 18th day of October, 1961, termination to be effective on the 4th day of September, 1962."

APPLICATION FOR DECLARATION THAT STRIKE UNLAWFUL DISPOSED

OF DURING SEPTEMBER 1962

4460-62-U: S. D. Boz & Co. Limited (Applicant) v. Tarcisio Copetti et al (Respondents). (WITHDRAWN).

APPLICATIONS FOR DECLARATION THAT LOCKOUT UNLAWFUL DISPOSED

OF DURING SEPTEMBER 1962

4462-62-U: Local 2693, Lumber and Sawmill Workers Union of the United Brotherhood of Carpenters and Joiners of America (Applicant) v. George Feniuk (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board finds that the respondent on August 30th, 1962 refused to continue to employ a number of his employees and that the said refusal constituted a lock-out within the meaning of section 1 (1) (g) of The Labour Relations Act.

The Board declares that the said lock-out is unlawful."

4507-62-U: Lumber & Sawmill Workers Union Local 2537 (Applicant) v. Chapleau Lumber Company Ltd. (Respondent). (WITHDRAWN).

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF DURING
SEPTEMBER 1962

4366-62-U: The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Applicant) v. Queen's Taxi (Respondent). (WITHDRAWN).

4367-62-U: The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Applicant) v. New Empire Cab Company (Respondent). (WITHDRAWN)

4369-62-U: Oil, Chemical and Atomic Workers International Union on behalf of its Local 9633 Hamilton (Applicant) v. United Gas Limited (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board consents to the institution of a prosecution of the respondent for the following offence alleged to have been committed: that the respondent did contravene section 59 of The Labour Relations Act.

The appropriate documents will issue."

Board Member H.F. Irwin dissented and said:

"I dissent. In the circumstances of the case I would not have consented to the institution of a prosecution."

4461-62-U: S. D. Boz & Co. Limited (Applicant) v. Tarcisio Copetti et al (Respondents). (WITHDRAWN).

4464-62-U: S. D. Boz & Co. Limited (Applicant) v. George Prowett (Respondent). (WITHDRAWN).

4465-62-U: S. D. Boz & Co. Limited (Applicant) v. Bricklayers, Masons and Plasterers' International Union of America, Local 25 (Respondent). (WITHDRAWN).

4509-62-U: Lumber & Sawmill Workers Union Local 2537 (Applicant) v. Chapleau Lumber Company Ltd. (Respondent). (WITHDRAWN).

APPLICATIONS UNDER SECTION 65 DISPOSED OF DURING SEPTEMBER
1962

3539-61-U: George Norton (Complainant) v. Allanson Manufacturing Corporation Limited (Respondent).

3795-62-U: United Brotherhood of Carpenters and Joiners of America Local 498 (Complainant) v. Dunker Construction Limited (Respondent).

4499-62-U: Retail Clerks International Association (Complainant) v. Shoppers City Limited (Respondent).

4500-62-U: Retail Clerks International Association (Complainant) v. Central Super Markets Limited (Respondent).

CERTIFICATION INDEXED ENDORSEMENT

3316-62-R: Ready-Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers Local Union No. 230, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. C. Smythe for Sand Limited (Respondent).
(GRANTED SEPTEMBER, 1962).

The Board endorsed the Record as follows:

"The Respondent in its reply alleges,

The Respondent states that the Union has illegally coerced the management and the employees of the Respondent Company by illegally conspiring to induce breaches of contracts and by persuading customers of the Respondent Company to break their contracts with the Respondent Company, thereby requiring a layoff of employees of the Respondent Company.

This statement obviously does not disclose the specific facts or omissions complained of, nor the time when and places where the same were committed or omitted nor the names of the persons who engaged in or committed them. Counsel for the respondent states that the omitted information is not within the knowledge of his client but is peculiarly within the knowledge of the applicant union. He asks the Board to appoint an examiner to interview or examine the employees to ascertain whether they were coerced into signing their applications for membership in the applicant. He indicates that if the Board does not see fit to appoint an examiner for this purpose, then his client may want to interview the employees for the purpose of obtaining the omitted information and evidence to support its allegations.

It is obvious from the position taken by counsel for the respondent that at the time of the hearing the respondent had no evidence to support its allegations nor knowledge as to the omitted information. The respondent is seeking to have the Board engage in, or be responsible for conducting an inquiry of a purely exploratory nature for the purpose of proving general allegations of misconduct against the union.

It is the long-established practice and procedure of this Board that where allegations of impropriety in the nature of those in question are made it is incumbent on the party making them to assume the carriage and responsibility of leading evidence and proving them at a public hearing before the Board. In the circumstances, there is nothing before us to warrant consideration of the allegations of the respondent as contained in paragraph 10 of its reply."

PART 2
STATISTICAL TABLES

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TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

Type of Application	Sept. 1962	Number of applications filed 1st 6 months of fiscal year	
		62-63	61-62
I Certification	75	400	403
II Declaration Terminating Bargaining Rights	6	38	26
III Declaration of Successor Status	-	9	1
IV Conciliation Services	51	658	599
V Declaration that Strike Unlawful	1	26	31
VI Declaration that Lockout Unlawful	2	7	1
VII Consent to Prosecute	15	63	67
VIII Complaint of Unfair Practice in Employment (Section 65)	7	65	68
IX Miscellaneous	<u>2</u>	<u>14</u>	<u>11</u>
TOTAL	<u>159</u>	<u>1280</u>	<u>1207</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	Sept. 1962	Number 1st 6 months of fiscal year	
		62-63	61-62
Hearings & Continuation of Hearings by the Board	83	602	486

TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

	Sept. 1962	Number of appl'ns disposed of 1st 6 months of fiscal yr.	
		<u>62-63</u>	<u>61-62</u>
I Certification	52	404	394
II Declaration Terminating Bargaining Rights	5	37	26
III Declaration of Successor Status	-	1	1
IV Conciliation Services	54	629	621
V Declaration that Strike Unlawful	1	26	31
VI Declaration that Lockout Unlawful	2	6	1
VII Consent to Prosecute	7	44	63
VIII Complaint of Unfair Practice in Employment (Section 65)	5	67	67
IX Miscellaneous	<u>2</u>	<u>6</u>	<u>10</u>
TOTAL	<u>128</u>	<u>1220</u>	<u>1214</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD BY TYPES AND BY DISPOSITION

Disposition	Sept. 1st 6 mos.fiscal yr.			*Employees Sept. 1st 6 mos.fiscal yr.		
	1962	62-63	61-62	1962	62-63	61-62

I Certification

Granted	36	272	253	781	7207	6787
Dismissed	14	91	95	899	7075	3990
Withdrawn	<u>2</u>	<u>41</u>	<u>46</u>	<u>111</u>	<u>1411</u>	<u>1139</u>
TOTAL	<u>52</u>	<u>404</u>	<u>394</u>	<u>1791</u>	<u>15693</u>	<u>11916</u>

II Termination of Bargaining Rights

Terminated	3	24	11	154	629	250
Dismissed	1	7	13	56	203	258
Withdrawn	<u>1</u>	<u>6</u>	<u>2</u>	<u>5</u>	<u>192</u>	<u>64</u>
TOTAL	<u>5</u>	<u>37</u>	<u>26</u>	<u>215</u>	<u>1024</u>	<u>572</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S28 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

	Number of appl'ns disposed of		
Sept.	1st 6 mos.	fiscal year	
<u>1962</u>	<u>62-63</u>	<u>61-62</u>	

III Conciliation Services*

Referred	51	567	588
Dismissed	-	12	8
Withdrawn	<u>3</u>	<u>50</u>	<u>25</u>
TOTAL	<u>54</u>	<u>629</u>	<u>621</u>

IV Declaration that
Strike Unlawful

Granted	-	6	3
Dismissed	-	7	2
Withdrawn	<u>1</u>	<u>13</u>	<u>26</u>
TOTAL	<u>1</u>	<u>26</u>	<u>31</u>

V Declaration that
Lockout Unlawful

Granted	1	1	-
Dismissed	-	4	1
Withdrawn	<u>1</u>	<u>1</u>	<u>-</u>
TOTAL	<u>2</u>	<u>6</u>	<u>1</u>

VI

VI Consent to
Prosecute

Granted	1	10	11
Dismissed	-	6	8
Withdrawn	<u>6</u>	<u>28</u>	<u>44</u>
TOTAL	<u>7</u>	<u>44</u>	<u>63</u>

*Includes applications for conciliation services re unions claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED
OF BY THE BOARD

	Sept. 1962	Number of Votes 1st 6 months of fiscal yr.	
		62-63	61-62
<u>* Certification After Vote</u>			
pre-hearing vote	1	18	27
post-hearing vote	4	13	23
ballots not counted	-	2	-
<u>Dismissed After Vote</u>			
pre-hearing vote	2	12	11
post-hearing vote	4	27	31
ballots not counted	-	1	-
TOTAL	<u>11</u>	<u>73</u>	<u>92</u>

* Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF
BY THE BOARD

	Sept. 1962	Number 1st 6 months of fiscal yr.	
		62-63	61-62
<u>* Respondent Union Successful</u>			
Respondent Union	-	5	2
Unsuccessful	<u>1</u>	<u>6</u>	<u>10</u>
TOTAL	<u>1</u>	<u>11</u>	<u>12</u>

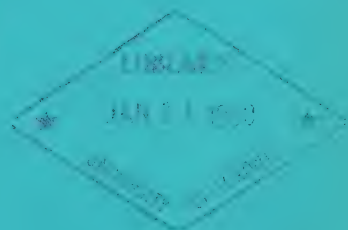
*In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer; the incumbent union is thus the respondent.

MONTHLY REPORT



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ONTARIO LABOUR RELATIONS BOARD



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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD DURING OCTOBER 1962

Bargaining Agents Certified During October
No Vote Conducted

3046-62-R: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. Busy B Discount Foods Limited (Respondent).

Unit: "all meat department employees of the respondent in its stores in the Township of Westminster, save and except meat department manager, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (11 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

The Board endorsed the Record in part as follows:

"Having regard to the circumstances surrounding the origination, preparation and circulation of the documents submitted to the Board as indicative of opposition by some of the employees of the respondent to the application of the applicant, the Board is not prepared to hold that the documents weaken the evidence of membership submitted by the applicant so as to make it necessary for the Board to seek the confirmatory evidence of a representation vote in this matter.

In all the circumstances of this case, the Board finds that the evidence adduced on behalf of the group of employees does not sustain the allegations made in respect of the documentary evidence of membership filed by the applicant."

Board Member H.F. Irwin dissented and said:

"I dissent. In all the circumstances of this case I would have directed that a representation vote be taken to ascertain the true wishes of the employees of the respondent in the bargaining unit."

3047-61-R: Food Handlers' Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. Busy B Discount Foods Limited (Respondent).

Unit: "all employees of the respondent at its stores in the Township of Westminster, save and except assistant store managers, persons above the rank of assistant store manager, meat department employees, office staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period."
(59 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

The Board endorsed the Record in part as follows:

"Having regard to the circumstances surrounding the origination, preparation and circulation of the documents submitted to the Board as indicative of opposition by some of the employees of the respondent to the application of the applicant, the Board is not prepared to hold that the documents weaken the evidence of membership submitted by the applicant so as to make it necessary for the Board to seek the confirmatory evidence of a representation vote in this matter.

In all the circumstances of this case, the Board finds that the evidence adduced on behalf of the group of employees does not sustain the allegations made in respect of the documentary evidence of membership filed by the applicant."

Board Member H.F. Irwin dissented and said:

"I dissent. In all the circumstances of this case I would have directed that a representation vote be taken to ascertain the true wishes of the employees of the respondent in the bargaining unit."

3526-62-R: International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U.A.W.)
(Applicant) v. Brantford Coach and Body Limited (Respondent).

Unit: "all office and clerical employees of the respondent at Brantford and Cainsville save and except department heads, persons above the rank of department head, registered nurse and salesmen." (67 employees in the unit).

(UNIT AGREED TO BY THE PARTIES)

On July 18, 1962, the Board endorsed the Record in part as follows:

"The applicant and its Local 1177 were parties to a collective agreement with the respondent which was entered into on the 24th day of January, 1955.

The termination clause of the collective agreement reads as follows:

"53. This agreement shall be in effect until the 24th day of January, 1956 and shall thereafter continue from year to year unless within 60 days before the expiration date, either party shall give written notice to the other party that it desires revision, modification or termination of this agreement at its expiration date."

No written notice of desire to revise, modify or terminate the collective agreement was served by either party to the collective agreement and it therefore appears that the collective agreement continued in force for at least one more year after the 24th day of January, 1956.

The applicant withdrew the charter of its Local 1177 on March 6th, 1957 and its Local 1177 ceased to exist after that date.

There is no evidence before the Board that either the applicant or its Local 1177 had any contact with the respondent after March 1957 and as a matter of fact the respondent was not even advised that Local 1177 ceased to exist until it was notified of this at the hearing of this matter. There was no active representation by the applicant of the employees covered by the collective agreement since Local 1177 surrendered its charter to the applicant. Although the collective agreement set out maximum wages to be paid, the respondent increased the wages of the employees covered by the collective agreement in 1959 without the knowledge or consent of the applicant.

From the evidence before it the Board is of opinion that the applicant failed to realize that it continued as bargaining agent of the employees covered by the collective agreement after Local 1177 surrendered its charter. At the hearing the applicant stated that it had abandoned any bargaining rights it held under the collective agreement.

The Board finds that since 1957 the applicant has not exercised its bargaining rights for the employees covered by the collective agreement.

The Board further finds that the applicant has abandoned its bargaining rights for the employees of the respondent covered by the collective agreement between the applicant and its Local 1177 and the respondent which was entered into on the 24th day of January 1955."

Board Member H.F. Irwin dissented and said:

"I dissent. The applicant failed to notify the respondent that it withdrew the charter of its Local 1177 and failed to serve notice on the respondent to bargain for renewal of the collective agreement. In my opinion, the applicant cannot now claim abandonment of bargaining rights and thus take advantage of its own omissions in order to apply to be certified as bargaining agent for the same group of the respondent's employees."

3594-62-R: The National Union of Public Employees (Applicant)
v. The Corporation of the County of Lincoln (Respondent).

Unit: "all jail employees of the respondent in Lincoln County, save and except chief turnkey, chief matron and persons above the rank of chief turnkey or chief matron."
(13 employees in the unit).

The Board endorsed the Record in part as follows:

"At the hearing the parties agreed to be bound by the decision of the Board in the Municipality of Metropolitan Toronto Case (File No. 3597-62-R) on the question as to whether the persons whom the applicant seeks to represent are or are not employees of the respondent. Having regard to the decision of the Board in that case dated October 17th, 1962, we find that the persons whom the applicant seeks to represent in this case are employees of the respondent."

3595-62-R: The National Union of Public Employees (Applicant)
v. The Corporation of the County of Welland (Respondent).

Unit: "all jail employees of the respondent in Welland County, save and except chief turnkey, chief matron and persons above the rank of chief turnkey or chief matron."
(13 employees in the unit).

The Board endorsed the Record in part as follows:

"At the hearing the parties agreed to be bound by the decision of the Board in the Municipality of Metropolitan Toronto Case (File No. 3597-62-R) on the question as to whether the persons whom the applicant seeks to represent are or are not employees of the respondent. Having regard to the decision of the Board in that case dated October 17th, 1962, we find that the persons whom the applicant seeks to represent in this case are employees of the respondent."

3661-62-R: The National Union of Public Employees (Applicant) v. The Corporation of the County of Ontario (Respondent).

Unit: "all jail employees of the respondent in the County of Ontario, save and except chief turnkeys, chief matron, persons above the ranks of chief turnkey or chief matron and office staff." (23 employees in the unit).

The Board endorsed the Record as follows:

"At the hearing the parties agreed to be bound by the decision of the Board in the Municipality of Metropolitan Toronto Case (File No. 3597-62-R) on the question as to whether the persons whom the applicant seeks to represent are or are not employees of the respondent. Having regard to the decision of the Board in that case dated October 17th, 1962, we find that the persons whom the applicant seeks to represent in this case are employees of the respondent."

4021-62-R: General Truck Drivers Local Union No. 879, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Phillips Transports Limited (Respondent).

Unit: "all employees of the respondent employed at or working out of Toronto, Hamilton, Welland, Port Colborne, Dunnville, Simcoe, Tillsonburg, Aylmer, St. Thomas and Port Maitland, save and except foremen, persons above the rank of foreman and office staff." (67 employees in the unit).

4149-62-R: United Steelworkers of America (Applicant) v. Polyfiber Limited (Respondent).

Unit: "all employees of the respondent at Renfrew, save and except foremen, persons above the rank of foreman and office and sales staff." (23 employees in the unit).

The Board endorsed the Record as follows:

"For the purposes of clarity, the Board declares that quality control inspectors are included in the bargaining unit."

4250-62-R: The Hotel and Club Employees' Union, Local 299, Toronto of the Hotel & Restaurant Employees' and Bartenders' International Union (Applicant) v. The Four Seasons Motor Hotel, Toronto (Respondent).

Unit: "all employees of the respondent at The Four Seasons Motor Hotel, save and except supervisors, persons above the rank of supervisor, office staff, persons regularly employed for not more than twenty-four hours per week, students employed during the school vacation period, security guards and stationary engineers." (105 employees in the unit).

4481-62-R: United Steelworkers of America (Applicant) v. Silver Summit Mines Ltd. (Respondent).

Unit: "all employees of the respondent in Coleman Township in the Cobalt area, save and except shift bosses, foremen, assistant chief chemists, persons above the ranks of shift boss, foreman and assistant chief chemist, office staff, laboratory staff, employees in the engineering and geological departments, security guards, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (5 employees in the unit).

4506-62-R: The Canadian Union of Operating Engineers (Applicant) v. Anchor Cap and Closure Corporation of Canada Ltd. (Respondent).

Unit: "all stationary engineers of the respondent in the boiler room of its plant at Toronto, save and except the chief engineer." (3 employees in the unit).

4515-62-R: International Woodworkers of America (Applicant) v. Beauty Wood Mfg. Company (Respondent).

Unit: "all employees of the respondent at the Township of Bexley, save and except foremen, persons above the rank of foreman, office and sales staff." (8 employees in the unit).

4516-62-R: International Woodworkers of America (Applicant) v. Quality Plywood & Veneer Co. Ltd. (Respondent).

Unit: "all employees of the respondent at the Township of Bexley, save and except foremen, persons above the rank of foreman, office and sales staff." (27 employees in the unit).

4518-62-R: United Steelworkers of America (Applicant) v. Dominion Bridge Company Limited Dixie Warehouse Warehouse Division (Respondent).

Unit: "all employees of the respondent at its warehouse in the Township of Toronto, save and except foremen, those above the rank of foreman, office and sales staff." (31 employees in the unit).

4519-62-R: International Woodworkers of America (Applicant) v. Bathurst Containers Limited (Respondent).

Unit: "all die cutters, die molders and die mounters employed by the respondent at Hamilton." (25 employees in the unit).

(HAVING REGARD TO THE REPRESENTATIONS OF THE PARTIES AT THE

HEARING AND IN THE CIRCUMSTANCES OF THIS CASE).

4520-62-R: International Hod Carriers' Building & Common Labourers' Union of America Local 1250 (Applicant) v. Heafey Construction Limited (Respondent).

Unit: "all construction labourers of the respondent employed at or working out of Ottawa, save and except non-working foremen and persons above the rank of non-working foreman." (3 employees in the unit).

4532-62-R: United Electrical, Radio & Machine Workers of America (UE) (Applicant) v. Penn Controls Limited (Respondent).

Unit: "all employees of the respondent in the Township of Scarborough, save and except supervisors, persons above the rank of supervisor, office and sales staff and students employed during the school vacation period." (4 employees in the unit).

Board Member D.B. Archer dissented and said:

"I dissent. I would not have excluded students employed during the school vacation period from the bargaining unit."

4534-62-R: The Lumber and Sawmill Workers' Union, Local 2995 of the United Brotherhood of Carpenters and Joiners of America (Applicant) v. G.K. Stringer (Respondent).

Unit: "all employees of the respondent in its bush operations in the District of Algoma, save and except foremen, persons above the rank of foreman, office staff, scalers and tallymen." (41 employees in the unit).

4536-62-R: United Brotherhood of Carpenters and Joiners of America, Local Union 2480 (Applicant) v. Foley Construction Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent within a radius of 20 miles of the City of Barrie, including all the lands under the jurisdiction of the Department of National Defence, Camp Borden, save and except non-working foremen and persons above the rank of non-working foreman." (3 employees in the unit).

4551-62-R: International Brotherhood of Bookbinders Local 28, (Applicant) v. E.G. Thomas and Son Limited (Respondent).

Unit: "all employees of the respondent at Toronto, save and except foremen, persons above the rank of foreman, office and sales staff, and persons regularly employed for not more than 24 hours per week." (22 employees in the unit).

4557-62-R: United Steelworkers of America (Applicant) v. Russelsteel Limited (Respondent).

Unit: "all employees of the respondent at its Leaside plant, save and except foremen, persons above the rank of foreman and office staff." (37 employees in the unit).

4558-62-R: Retail, Wholesale and Department Store Union (Applicant) v. The Borden Company, Limited (Respondent).

Unit: "all employees of the respondent at its milk receiving station at Woodstock, save and except the receiving station manager and persons regularly employed for not more than 24 hours per week." (4 employees in the unit).

4578-62-R: International Union of Operating Engineers, Local 865 (Applicant) v. Doran's Northern Ontario Breweries Limited (Respondent).

Unit: "all stationary engineers employed in the boiler room of the respondent at Port Arthur, save and except the chief engineer." (5 employees in the unit).

4586-62-R: United Brotherhood of Carpenters and Joiners of America, Local Union 1450 (Applicant) v. E.G.M. Cape & Co. (1956) Limited (Respondent).

Unit: "all carpenters and carpenter's apprentices employed by the respondent, in the County of Peterborough; save and except except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

4593-62-R: International Union of Operating Engineers, Local 793 (Applicant) v. The Cooper Wrecking Company Limited (Respondent).

Unit: "all employees of the respondent employed at or working out of Dundas engaged in the operation of cranes, shovels, bulldozers and similar equipment; and persons primarily engaged in the repairing and maintaining of same; save and except non-working foreman and persons above the rank of non-working foreman." (2 employees in the unit).

4597-62-R: Lumber & Sawmill Workers Union, Local 2693, of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. George Feniuk (Respondent).

Unit: "all employees of the respondent in his woods operations in the Township of Colenso and those Townships immediately adjacent thereto, save and except foremen, persons above the rank of foreman, office staff and scalers." (17 employees in the unit)

4600-62-R: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Spaulding Fibre of Canada Limited (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office staff." (28 employees in the unit).

4609-62-R: United Cement, Lime and Gypsum Workers International Union, A.F.L.-C.I.O.-C.L.C. (Applicant) v. A. Bethell & Son Limited (Respondent).

Unit: "all employees of the respondent at Ottawa, save and except foremen, persons above the rank of foreman and office and sales staff." (15 employees in the unit).

4610-62-R: United Brotherhood of Carpenters and Joiners of America, A.F.L., C.I.O., C.L.C. (Applicant) v. Ball Brothers Limited (Respondent).

Unit: "all carpenters and carpenter apprentices employed by the respondent in the Counties of Oxford, Perth, Middlesex, Bruce and Elgin save and except non-working foremen and persons above the rank of non-working foreman." (5 employees in the unit)

(SEE INDEXED ENDORSEMENT PAGE 236)

4614-62-R: Bricklayers and Masons Union Local No. 1 Ontario (Applicant) v. Owen W. Smith (Respondent).

Unit: "all bricklayers, bricklayer apprentices, stone masons and stone mason apprentices in the employ of the respondent in the County of Wentworth, except the Township of Beverley; the County of Halton, except that portion East of Sixteen Mile Creek from the Lakeshore to the Queen Elizabeth Highway and that portion East of the Sixth Line North from the Queen Elizabeth Highway; Townships of North and South Grimsby and Caistor in County of Lincoln; and the County of Haldimand except Townships of Moulton and Dunn, save and except non-working foremen and persons above the rank of non-working foreman." (4 employees in the unit).

4615-62-R: Bricklayers and Masons Union, Local No. 1 Ontario (Applicant) v. Newman Brothers Construction Limited (Respondent).

Unit: "all bricklayers, bricklayer apprentices, stone masons and stone mason apprentices in the employ of the respondent in the County of Wentworth; the County of Halton, except that portion East of Sixteen Mile Creek from the Lakeshore to the Queen Elizabeth Highway and that portion East of the Sixth Line North from the Queen Elizabeth Highway; Townships of North and South Grimsby and Caistor in the County of Lincoln; and the County of Haldimand except Townships of Moulton and Dunn, save and except non-working foremen and persons above the rank of non-working foreman." (14 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 237)

4626-62-R: United Packinghouse, Food and Allied Workers,
(Applicant) v. Wagstaffe Limited (Respondent).

Unit: "all seasonal employees of the respondent at Hamilton, save and except foremen and foreladies, persons above the ranks of foreman and forelady, office and sales staff and persons regularly employed for not more than 24 hours per week."
(42 employees in the unit).

4630-62-R: United Steelworkers of America (Applicant) v. Duo-Heet Limited (Respondent).

Unit: "all employees of the respondent at Waterford, save and except foremen, persons above the rank of foreman and office staff." (44 employees in the unit).

4637-62-R: District 50, United Mine Workers of America
(Applicant) v. Pan American Screw Corporation Limited
(Respondent).

Unit: "all employees of the respondent at Toronto, save and except foremen, persons above the rank of foreman and office staff." (10 employees in the unit).

4655-62-R: Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Stroud's Fruit Limited (Respondent).

Unit: "all employees of the respondent at Oshawa, save and except store manager, persons above the rank of store manager, meat department employees, persons regularly employed for not more than 24 hours per week and students employed during the school vacation period." (4 employees in the unit).

(HAVING REGARD TO THE AGREEMENT OF THE PARTIES AND IN THE SPECIAL CIRCUMSTANCES OF THIS CASE)

4667-62-R: The Canadian Union of Operating Engineers
(Applicant) v. Gibson Bros. Limited (Respondent).

Unit: "all stationary engineers of the respondent employed in the boiler room at 246 Bloor Street West, save and except the chief engineer." (3 employees in the unit).

4680-62-R: Division 107, Amalgamated Association of Street Electric Railway and Motor Coach Employees of America, Hamilton, Ontario (Applicant) v. Public Service Commission of Galt (Respondent).

Unit: "all employees of the respondent at Galt, save and except foremen, persons above the rank of foreman and office and sales staff." (8 employees in the unit).

4682-62-R: International Woodworkers of America (Applicant) v. Allen Wood Products Ltd. (Respondent).

Unit: "all employees of the respondent in Fenelon Falls, save and except foremen, persons above the rank of foreman and office and sales staff." (47 employees in the unit).

4688-62-R: The Canadian Union of Operating Engineers (Applicant) v. T. Roberts & Sons Limited (Respondent).

Unit: "all stationary engineers and helpers primarily engaged in the boiler room of the respondent at Toronto." (3 employees in the unit).

Certified Subsequent to Pre-Hearing Vote

3529-62-R: Local 173, International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America (Applicant) v. Dare Foods (Biscuit Division) Limited (Respondent) v. Dare's Employees' Association (Intervener).

- and -

3798-62-R: Local 173, International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America (Applicant) v. Dare Foods (Biscuit Division) Limited (Respondent) v. Dare's Employees' Association (Intervener).

Unit: "all employees of the respondent at Kitchener and Toronto, save and except foremen and foreladies, persons above the rank of foreman and forelady, plant nurse, office staff and salesmen." (289 employees).

THE ABOVE MATTERS ARE CONSOLIDATED.

(SEE INDEXED ENDORSEMENT PAGE 234)

Number of names on revised eligibility list		217
Number of ballots cast	210	
Number of spoiled ballots	1	
Number of ballots marked in favour of applicant	117	
Number of ballots marked in favour of intervener	92	

4296-62-R: Sudbury General Workers Union, Local #101, Canadian Labour Congress (Applicant) v. Weston Bakeries Limited (Respondent) v. The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Intervener).

Unit: "all employees of the respondent at Sudbury, save and except sales supervisors, foremen, foreladies, persons above the rank of foreman or forelady, office staff and persons regularly employed for not more than 24 hours per week." (35 employees in the unit).

Number of names on revised eligibility list		34
Number of ballots cast	34	
Number of ballots marked in favour of applicant	32	
Number of ballots marked in favour of intervener	2	

4339-62-R: The Canadian Union of Operating Engineers (Applicant) v. The Essex Health Association, operating The Essex County Sanatorium and The I.O.D.E. Memorial Hospital, Windsor, Ontario (Respondent) v. Local 944, International Union of Operating Engineers (Intervener).

Unit: "all engineers, firemen, and their apprentices and helpers employed by the respondent at Windsor, save and except chief engineer." (7 employees in the unit).

Number of names on revised eligibility list		5
Number of ballots cast	5	
Number of ballots marked in favour of applicant	3	
Number of ballots marked in favour of intervener	2	

4430-62-R: International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America, AFL-CIO-CLC (Applicant) v. W. J. Hyatt, Ltd. (Respondent) v. General Truck Drivers' Union Local No. 938, affiliated with I.B. of T.C. & H. of A. (Intervener).

Unit: "all employees of the respondent employed at its Toronto terminal save and except foremen, persons above the rank of foreman, and office staff." (24 employees in the unit).

Number of names on revised eligibility list		22
Number of ballots cast	21	
Number of ballots marked in favour of applicant	19	
Number of ballots marked in favour of intervener	2	

4483-62-R: United Steelworkers of America (Applicant) v. Greening Wire Rope and Cable Company (Respondent) v. Greening Wire Employees Association (Intervener).

Unit: "all employees of the respondent at Midland, save and except foremen, persons above the rank of foreman and office staff." (54 employees in the unit).

Number of names on revised eligibility list		53
Number of ballots cast	51	
Number of ballots marked in favour of applicant	39	
Number of ballots marked in favour of intervener	12	

4487-62-R: International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.), (Applicant) v. Palmer-Pann Corporation Canadian Division (Respondent).

Unit: "all employees of the respondent in its Windsor plant, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (42 employees in the unit).

Number of names on revised eligibility list		39
Number of ballots cast	39	
Number of ballots marked in favour of applicant	27	
Number of ballots marked as opposed to applicant	12	

2501-62-R: United Steelworkers of America (Applicant) v. The International Nickel Company of Canada, Limited (Respondent) v. Sudbury Mine, Mill and Smelter Workers' Union, Local 598 (Intervener) v. Sudbury Mine, Mill & Smelter Workers Local 598, of the International Union of Mine, Mill & Smelter Workers (Intervener) v. International Union of Mine, Mill & Smelter Workers (Intervener) v. Group of Employees.

On October 15, 1962 the Board certified the applicant after a representation vote. A request was made by the Mine Mill & Smelter Workers Local 598 of The International Union of Mine, Mill and Smelter Workers to the Board to reconsider its decision of October 15th, 1962. The Board ruled on this request on November 15th, 1962.

The determinations of the Board in respect of this application will be reported in the November 1962 Monthly Report of The Ontario Labour Relations Board.

3150-61-R: The National Union of Public Employees, C.L.C.
(Applicant) v. The Victoria County District High School Board
(Respondent).

Unit: "all employees of the respondent in Lindsay and Fenelon Falls engaged in caretaking and maintenance of schools and those persons engaged as cafeteria help, save and except supervisors, persons above the rank of supervisor, office staff and persons regularly employed for not more than 24 hours per week."
(9 employees in the unit).

Number of names on revised eligibility list	11
Number of ballots cast	12
Number of ballots segregated (not counted)	4
Number of ballots marked in favour of applicant	8
Number of ballots marked as opposed to applicant	0

Certified Subsequent to Post-Hearing Vote

3313-61-R: National Union of Public Service Employees
(Applicant) v. Corporation of the City of St. Catharines
(Respondent).

The Board found the following unit to be appropriate:

"all employees of the respondent at St. Catharines in the assessment, clerks, engineering, finance, planning and welfare departments, save and except employees who exercise managerial functions and employees employed in a confidential capacity in matters relating to labour relations, the senior building and plumbing inspector, one confidential secretary each to the mayor, the assessment commissioner, the city administrator, the city clerk, the city engineer, the finance commissioner, the director of planning and the director of welfare, persons regularly employed for not more than 24 hours per week, students hired for the school vacation period or on a co-operative training programme and employees presently bound by a collective agreement between the respondent and Local 150 of the National Union of Public Service Employees."
(102 employees in the unit).

The Board endorsed the Record in part as follows:

"For the purposes of clarity, the Board declares that the city dog catcher, the assistant oil pollution control officer and sign inspector, building and plumbing inspector, assistant building inspector, plumbing inspector, and the sewer inspector do not exercise managerial functions within the meaning of section 1 (3)

(b) of The Labour Relations Act and are employees of the respondent included in the bargaining unit."

Board Member C.C. Young dissented and said:

"I dissent. I would not have included in the bargaining unit the building and plumbing inspector, the sewer inspector, the assistant building inspector, the assistant air pollution control officer or the city dog catcher.

It is clear from the evidence in the examiner's report that each of these persons is vested with considerable discretionary authority to apply and enforce important city by-laws, and to the extent that each of these persons by issuing stop-work orders or summonses, acts for and commits the city in important ways, I would have found that they exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act."

Number of names on revised eligibility list		94
Number of ballots cast	93	
Number of ballots marked in favour of applicant	62	
Number of ballots marked as opposed to applicant	31	

3683-62-R: Loblaw Workers' Council (Applicant) v. Loblaw Groceterias Co. Ltd. (Respondent) v. Retail Clerks International Association, Local 206 (Intervener).

Unit: "all employees of the respondent at its retail stores in Guelph who are regularly employed for not more than twenty-four hours per week." (34 employees in the unit).

Number of names on revised eligibility list		17
Number of ballots cast	17	
Number of ballots marked in favour of applicant	13	
Number of ballots marked in favour of intervener	4	

4003-62-R: Brotherhood of Painters, Decorators and Paperhangers of America Local Union 1482 (Applicant) v. Carl Horn Painting Contractor (Respondent).

Unit: "all painters, decorators, paperhangers and their apprentices of the respondent employed at or working out of Sudbury, save and except non-working foremen, persons above the rank of non-working foreman and office staff." (13 employees in the unit).

Number of names on revised eligibility list	20
Number of ballots cast	14
Number of ballots marked in favour of applicant	14
Number of ballots marked as opposed to applicant	0

Applications for Certification Dismissed No Vote Conducted

2025-61-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 837, Hamilton, Ontario (Applicant) v. Robertson-Yates Corporation Limited 400 Wellington St., Hamilton (Respondent). (19 employees).

The Board endorsed the Record as follows:

"The applicant union seeks certification as bargaining agent for certain employees of the respondent in a geographical area consisting of three counties. However, it is common ground between the parties that, in the three counties concerned, the respondent company has no employees whom the applicant seeks to represent except those engaged on the Lewiston-Queenston International Bridge project. The respondent contends that there is no authority in the Ontario Labour Relations Board to certify the applicant as bargaining agent for these employees on the ground that the matter is one which lies within the competence of appropriate federal legislation by virtue of section 92 (10)(a) of the British North American Act.

Counsel for the respective parties have agreed on the facts pertinent to the constitutional issue involved. In substance, these are that the respondent is a general contractor engaged in the construction, under a contract with the Niagara Falls Bridge Commission, of certain structures at the Canadian terminus of the bridge. These structures consist of a terminal and approaches, including a port of entry into Canada with customs and immigration installations, a customs compound and warehouse, toll lanes and toll booths. In our opinion, the relations between the respondent and the employees concerned in this application, on matters covered by The Labour Relations Act, fall outside the jurisdiction of this

Board. See Campbell Bennett Ltd. v. Comstock Mid Western Ltd. et. al., [1954] 3 D.L.R. 481; Cant v. Canadian Bechtel Ltd. [1957] 12 D.L.R. 2d 215.
This proceeding is accordingly terminated."

Board Member, G. Russell Harvey dissented and said:

"I dissent. Construction of the bridge approach is, in my opinion, highway development and therefore remains in provincial jurisdiction."

2857-61-R: United Brotherhood of Carpenters & Joiners of America (Applicant) v. Cementation Company of Canada Limited (Respondent).

The Board endorsed the Record as follows:

"The Board finds that, at the times material to this application, the respondent did not have in its employ employees in the occupational classifications comprising the bargaining unit that the applicant claimed to be appropriate. The Board further finds that the applicant had insufficient membership to entitle it either to certification or to a representation vote in any other unit that the Board might determine to be appropriate.

The application is accordingly dismissed."

4286-62-R: Seafarers' International Union of Canada (Applicant) v. Wolfe Island Corporation (Crew of the M.V. "Wolfe Island", a passenger ferry operating between Kingston and Wolfe Island) (Respondent). (TERMINATED) (12 employees).

The Board endorsed the Record as follows:

"By order of the Board dated August 3, 1962, an Examiner was authorized to examine the records of and to confer with the parties. In his report to the Board, the Examiner advised that the respondent had passed a by-law purporting to be a declaration under section 89 of The Labour Relations Act, that The Labour Relations Act shall not apply to the respondent in its relations with its employees or any of them. Subsequently, by registered letter dated August 16, 1962, the Registrar informed the applicant of the passing of the said by-law and invited representations regarding the same to be submitted not later than August 22, 1962. No representations have been received by the Board from the applicant.

The Board finds that the respondent is a municipality as defined in the Department of Municipal Affairs Act, and that it has by by-law declared, pursuant to the provisions of section 89 of The Labour Relations Act, that The Labour Relations Act shall not apply to it in its relations with its employees or any of them. In view of the action of the respondent in making such a declaration, the Board has no jurisdiction to process this application further and the application is accordingly terminated."

4379-62-R: McBride Motors Shop Employees Union (Applicant) v. McBride Motors Limited (Respondent). (31 employees).

The Board endorsed the Record as follows:

"The organization meeting of the applicant was held on the employer's premises with the permission of the employer and without payment by the applicant for the use of the premises. Notice of this meeting was posted adjacent to the time clock on the employer's premises with the permission of the employer and stated that the purpose of the meeting was "to form a union". Similar circumstances exist with respect to the only meeting held by the applicant following its formation. Having regard to the provisions of section 10 of The Labour Relations Act we are precluded from certifying the applicant.

The application is accordingly dismissed."

4537-62-R: National Union of Public Employees (Applicant) v. County of Brant (Respondent). (13 employees).

The Board endorsed the Record as follows:

"The Board finds that the respondent is a municipality as defined in The Department of Municipal Affairs Act, and that it has declared pursuant to the provisions of section 89 of The Labour Relations Act that The Labour Relations Act shall not apply to it in its relations with its employees or any of them. In view of the action of the respondent in making such a declaration, the Board has no jurisdiction to process this application further and the application is accordingly terminated."

4553-62-R: International Hod. Carriers' Building and Common Laborers' Union of America, Local 837, Hamilton Ontario (Applicant) v. Gardner Construction Company Limited (Respondent).

Unit: "all construction labourers of the respondent employed in the Counties of Lincoln, Welland, Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (2 employees in the unit).

The Board endorsed the Record as follows:

"Although the applicant has requested leave to withdraw its application herein, the Board following its usual practice in such cases, dismisses the application.

The attention of the parties is drawn to the Matthias Ouellette Case (1955) C.C.H. Canadian Labour Law Reporter, Transfer Binder 1955-59 ¶16026, C.L.S. 76-845."

4571-62-R: Local 869 International Union of Operating Engineers (Applicant) v. Zephyr Textile Mills Ltd. (Respondent) v. United Textile Workers of America - Local 105 (Intervener). (4 employees).

The Board endorsed the Record as follows:

"The applicant seeks to carve out a separate bargaining unit of stationary engineers from an industrial unit for which the intervener union is the existing bargaining agent. The stationary engineers have constituted an integral component of this industrial unit for at least five years. During this time they have enjoyed and received the same or equivalent quality of representation by the intervener as that accorded to other employees in the unit. Further, on the evidence, it cannot be said that the intervener has been derelict in its duties as a collective bargaining agent for the engineers, or that any complaints respecting the quality of representation by the intervener have been made by the engineers.

Both the respondent employer and the intervener union oppose the application for certification by the applicant. They contend that the Board ought not to apply the provisions of section 6 (2) of The Labour Relations Act, but should find the unit requested by the applicant inappropriate for collective bargaining.

Some of the cases in which the Board has had occasion to enumerate and review the factors which it has considered important in exercising its discretion under section 6 (2) of the Act are as follows: Lily Cups Ltd., Ontario Labour Relations Board Monthly Report, January, 1961, p. 370; Automatic Electric

(Canada) Limited, ibid, November, 1961, p. 272;
Darling & Company of Canada Ltd., ibid, November,
1961, p. 273; Cluett Peabody & Company of Canada
Ltd., ibid, December, 1961, p. 314; Maxwell Limited,
ibid, December, 1961, p. 323; Dominion Fabrics
Limited, ibid, January, 1962, p. 347; American-
Standard Products (Canada) Ltd., ibid, January, 1962,
p. 348; Fairhaven Home for the Aged, Board file 1841-
61-R; Canada Foundries & Forgings, (1961) C.C.H.
Canadian Labour Law Reporter, ¶16,203, C.L.S. 76-753;
Sheraton Brock Hotel, (1961) C.C.H., ibid, ¶16,205,
C.L.S. 76-758; Kent Tile & Marble Co. Case, (1961)
C.C.H., ibid, ¶16,204, C.L.S. 76-756.

Having regard to the foregoing decisions of this Board, and to all the circumstances of this case including the nature of the respondent's business, and the history of collective bargaining at the respondent's plant, we do not consider this to be a proper case for the application of section 6 (2) of the Act. We find that the unit requested by the applicant is not appropriate for collective bargaining.

The application is dismissed."

4627-62-R: Walker's Bakeries Ltd, Employees Association
(Applicant) v. The Walker Bakeries Limited (a division of
General Bakeries Limited) (Respondent) v. Bakery & Confectionery
Workers' International Union of America, Local 322 (Intervener)
v. Milk and Bread Drivers, Dairy Employees, Caterers & Allied
Emp. Local Union No. 647 (Intervener). (54 employees).

The Board endorsed the Record as follows:

"The applicant having failed to file documentary evidence of membership in the applicant within the time fixed in accordance with the Board's Rules of Procedure, this application is accordingly dismissed."

4662-62-R: Welders Public Garage Employees Motor Mechanics
and Allied Workers Local Union 847, affiliated with the Inter-
national Brotherhood of Teamsters Chauffeurs Warehousemen and
Helpers of America (Applicant) v. Paul Willison Toronto Ltd.
(Respondent). (2 employees).

The Board endorsed the Record as follows:

"The applicant having failed to appear at the hearing of this case, this application is dismissed."

4663-62-R: Welders Public Garage Employees Motor Mechanics
and Allied Workers Local Union 847, affiliated with the Inter-
national Brotherhood of Teamsters Chauffeurs Warehousemen and
Helpers of America (Applicant) v. Paul Willison Ltd.
(Respondent). (24 employees).

The Board endorsed the Record as follows:

"The applicant having failed to appear at the hearing of this case, this application is dismissed."

Certification Dismissed Subsequent to Pre-Hearing Vote

4538-62-R: National Union of Public Employees (Applicant) v. Waterloo Lutheran University (Respondent).

Voting Constituency: "all employees of the respondent in its Department of Building and Grounds, employed at Waterloo, save and except foremen, persons above the rank of foreman, and office staff." (12 employees in the constituency).

Number of names on eligibility list		12
Number of ballots cast	11	
Number of ballots marked in favour of applicant	6	
Number of ballots marked as opposed to applicant	5	

Dismissed Subsequent to Post-Hearing Vote

2052-61-R: International Hod Carriers Building and Common Labourers' Union of America, Local 607 (Applicant) v. McNamara Marine Ltd. (Respondent).

Unit: "all construction labourers in the employ of the respondent in the District of Rainy River, save and except non-working foremen and persons above the rank of non-working foreman." (23 employees in the unit).

Number of names on revised eligibility list		8
Number of ballots cast	8	
Number of ballots marked in favour of applicant	1	
Number of ballots marked as opposed to applicant	5	
Number of ballots segregated (not counted)	2	

2973-61-R: United Brotherhood of Carpenters & Joiners of America, A.F.L. C.I.O., C.L.C. (Applicant) v. National Carpet & Furniture Cleaners (Respondent).

- and -

3110-61-R: United Brotherhood of Carpenters & Joiners of America A.F.L. C.I.O., C.L.C. (Applicant) v. National Carpet & Furniture Cleaners (Respondent).

THE ABOVE MATTERS ARE CONSOLIDATED

Unit: "all employees of the respondent at London, save and except foremen, persons above the rank of foreman and office and sales staff." (2 employees in the unit).

Number of names on eligibility list		2
Number of ballots cast	2	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	2	

3434-62-R: District 50, United Mine Workers of America (Applicant) v. Du Pont of Canada Limited (Respondent).

Unit: "all employees of Du Pont of Canada Limited at its Whitby plant in the town of Whitby, save and except foremen, persons above the rank of foreman, process and product development staff, nursing staff, office and sales staff, security guards and students hired for the school vacation period." (81 employees in the unit).

Number of names on revised eligibility list		76
Number of ballots cast	75	
Number of ballots marked in favour of applicant	19	
Number of ballots marked as opposed to applicant	56	

3512-62-R: Canadian Brotherhood of Railway, Transport and General Workers (Applicant) v. Trailways of Canada Limited (Respondent).

Unit: "all employees of the respondent at Richmond Hill and Newmarket, save and except foremen, persons above the rank of foreman, office staff and persons regularly employed for not more than 24 hours per week." (17 employees in the unit).

Number of names on revised eligibility list		15
Number of ballots cast	15	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	15	

4060-62-R: United Brotherhood of Carpenters and Joiners of America, Local Union 3227 affiliated with the Toronto and District Council of Carpenters and Millmen (Applicant) v. Canadian Engineering and Contracting Company Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices of the respondent in the Township of Esquesing, save and except non-working foremen and persons above the rank of non-working foreman." (20 employees in the unit).

Number of names on revised eligibility list		12
Number of ballots cast	12	
Number of ballots marked in favour of applicant	5	
Number of ballots marked as opposed to applicant	7	

4083-62-R: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. George L. J. Trottier (Respondent).

Unit: "all meat department employees of the respondent at Delhi." (3 employees in the unit).

Number of names on eligibility list		3
Number of ballots cast	3	
Number of ballots marked in favour of applicant	1	
Number of ballots marked as opposed to applicant	2	

4084-62-R: Food Handler's Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America (Applicant) v. George L. J. Trottier (Respondent).

Unit: "all employees of the respondent in its stores at Delhi, save and except store manager, persons above the rank of store manager, persons regularly employed for not more than 24 hours per week, and students employed during the school vacation period." (8 employees in the unit).

Number of names on revised eligibility list		10
Number of ballots cast	10	
Number of ballots marked in favour of applicant	3	
Number of ballots marked as opposed to applicant	7	

4101-62-R: Local 173, International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America. AFL-CIO-CLC (Applicant) v. Fishers Bread Company Limited (Respondent).

Unit: "all employees of the respondent at Waterloo, save and except foremen, route supervisors, persons above the ranks of foreman and route supervisor and office staff." (26 employees in the unit).

On August 21, 1962, the Board endorsed the Record in part as follows:

"A number of employees filed objections to the application within the time prescribed by section 50 of the Board's Rules of Procedure. At the hearing in this matter the applicant tendered five documents which were signed, he stated, by five employees in the bargaining unit. These documents were tendered as indicating a change of mind by the five employees with respect to the documents filed earlier in opposition to the application. The documents so tendered were properly identified and placed in a sealed envelope pending the Board's determination as to whether they should be accepted by the Board after the terminal date. Having regard to the Board's decision of April 7, 1961 in the Brampton Poultry Case (File 763-60-R) O.L.R.B. Monthly Report September 1961, p. 212, the documents in question will not be accepted by the Board and the Registrar is directed to return them to the applicant."

Number of names on revised eligibility list		21
Number of ballots cast	21	
Number of ballots marked in favour of applicant	10	
Number of ballots marked as opposed to applicant	11	

4257-62-R: International Woodworkers of America (Applicant) v. Sturgeon Falls Lumber Company Limited (Respondent).

Unit: "all employees of the respondent at Mattawa, save and except foremen, persons above the rank of foreman, and office and sales staff." (26 employees in the unit).

Number of names on revised eligibility list		23
Number of ballots cast	23	
Number of spoiled ballots	1	
Number of segregated ballots (not counted)	2	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	20	

4300-62-R: United Packinghouse, Food and Allied Workers, AFL-CIO-CLC (Applicant) v. The Milton Milling Company (Division of Robin Hood Flour Mills Limited) (Respondent).

Unit: "all employees of the respondent at its feed mill in Milton, save and except foremen, persons above the rank of foreman, office, sales staff and persons employed in the farm implement division." (23 employees in the unit).

Number of names on revised eligibility list		21
Number of ballots cast	21	
Number of ballots marked in favour of applicant	6	
Number of ballots marked as opposed to applicant	15	

Applications for Certification Withdrawn

4533-62-R: United Steelworkers of America (Applicant) v. Kitchen Installations Limited (Respondent) v. Sheet Metal Workers International Association Local Union # 233 (Intervener). (72 employees).

4535-62-R: Division 107, Amalgamated Association of Street Electric Railway and Motor Coach Employees of America, Hamilton, Ont. (Applicant) v. The Corporation of the City of Galt, Ontario (Respondent). (8 employees).

4599-62-R: Welders Public Garage Employees Motor Mechanics and Allied Workers Local Union 847, affiliated with The International Brotherhood of Teamsters, Chauffeurs Warehousemen and Helpers of America (Applicant) v. Paul Willison Ltd. (Respondent). (19 employees).

4625-62-R: Local Union 1766 of The International Brotherhood of Electrical Workers AFL-CIO-CLC (Applicant) v. The Oakville-Trafalgar Public Utilities Commission (Respondent). (18 employees).

APPLICATIONS FOR TERMINATION DISPOSED OF DURING OCTOBER 1962

3982-62-R: Local employees of Canadian Pittsburgh Industries Ltd. Local Union 47 (Applicant) v. Sheet Metal Workers International Association Local Union No. 47 (Respondent). (22 employees).

(Re: Canadian Pittsburgh Industries Limited, Ottawa, Ontario)

Board Member E. Boyer dissented and said:

"I dissent. In view of the unsatisfactory evidence as to the origination, preparation and circulation of the document submitted to the Board as indicative that the employees no longer wish to be represented by the respondent. I am not prepared to hold that the document makes it necessary for the Board to direct a representation vote in this case."

Number of names on revised eligibility list		22
Number of ballots cast	22	
Number of ballots marked in favour of respondent	1	
Number of ballots marked as opposed to respondent	21	

4128-62-R: Walter Pyke (Applicant) v. Welders, Public Garage Employees, Motor Mechanics and Allied Workers' Local Union No. 847, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent) v. McManus Motors Limited (Intervener). (GRANTED) (103 employees).

(Re: McManus Motors Limited,
London, Ontario)
Number of names on revised
eligibility list 84 87
Number of ballots cast 84
Number of ballots segregated
(not counted) 1
Number of ballots marked in
favour of respondent 19
Number of ballots marked as
opposed to respondent 64

4184-62-R: Air Master of Canada Limited (Applicant) v. United Steelworkers of America (Respondent). (GRANTED) (8 employees).

(Re: Air Master of Canada Limited,
St. Thomas, Ontario)
Number of names on
revised eligibility list 6 6
Number of ballots cast 6
Number of ballots marked in
favour of respondent 0
Number of ballots marked as
opposed to respondent 6

4233-62-R: Jan Van Eck (Applicant) v. United Mine Workers, District 50 (Respondent). (GRANTED) (6 employees).

(Re: R.R. MacKinnon Manufacturing Limited,
Dundas, Ontario)

Board Member G. Russell Harvey, dissented and said:

"I dissent. I would have dismissed the application. I would not accept evidence created by an office secretary."

Number of names on
revised eligibility list 6 6
Number of ballots cast 6
Number of spoiled ballots 1
Number of ballots marked in
favour of respondent 0
Number of ballots marked as
opposed to respondent 5

4256-62-R: Frederick Duane Reid, Gilbert Clarence Grant and Donald Hilton Buck (Applicants) v. General Truck Drivers' Union, Local 938, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent) v. The Great Atlantic & Pacific Tea Company, Limited (Intervener). (GRANTED) (10 employees).

(Re: The Great Atlantic & Pacific Tea Company Limited,
Belleville, Ontario)

Number of names on eligibility list		9
Number of ballots cast	9	
Number of ballots marked in favour of respondent	0	
Number of ballots marked as opposed to respondent	9	

4290-62-R: Alex Sim (Applicant) v. General Truck Drivers' Union, Local 419, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A.F. of L. (Respondent). (GRANTED) (5 employees).

(Re: Muir's Cartage Ltd.,
Toronto, Ontario)

Number of names on revised eligibility list		7
Number of ballots cast	7	
Number of ballots marked in favour of respondent	1	
Number of ballots marked as opposed to respondent	6	

4376-62-R: Canadian Lift Truck Company (1960) Limited (Applicant) v. Welders, Public Garage Employees, Motor Mechanics and Allied Workers Local Union 847, affiliated with the Int. Brotherhood of Teamsters, Etc. (Respondent). (DISMISSED) (7 employees).

(Re: Canadian Lift Truck Company (1960) Limited,
Metropolitan Toronto)

The Board endorsed the Record as follows:

"We are prepared to accept the evidence of the representative of the respondent that he made contact with the representative of the applicant at the offices of the Board prior to August 15, 1962.

Having regard to the fact that the application was made on the 61st day, one day after the time limit set out in section 45, and to the fact that this section is to be used as a shield and not as a sword (see The Dominion Stores Limited Case (1956) Canadian Labour Law Reporter, Transfer Binder 1955 to 1959, ¶16,047) and to the fact that there was at all events informal contact between the respondent and the applicant prior to the date of the making of the application, we are of the opinion that this application must be dismissed."

Board Member Colin C. Young dissented and said:

"I dissent. In the circumstances of this case I would have directed a representation vote."

4439-62-R: Dominion Loose Leaf Company Ltd. (Applicant) v. Amalgamated Lithographers of America Local 40, Ottawa (Respondent). (WITHDRAWN) (16 employees).

(Re: Dominion Loose Leaf Company Ltd.,
Ottawa, Ontario)

4577-62-R: The Employees of Transit Mixed Concrete Limited, Berryman Avenue, St. Catharines, Ontario (Applicant) v. Canadian Brotherhood of Railway, Transport and General Workers (Respondent) (DISMISSED) (38 employees).

(Re: Transit Mixed Concrete Limited,
St. Catharines, Ontario)

The Board endorsed the Record as follows:

"Having regard to the absence of evidence relating to the origination, circulation and manner in which each of the signatures to the petition was obtained we are not satisfied that not less than fifty per cent of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the respondent trade union.

The application is therefore dismissed."

4595-62-R: Donna Greenwood (Applicant) v. Amalgamated Clothing Workers of America (Respondent). (DISMISSED) (63 employees).

(Re: Deacon Brothers Limited,
Belleville, Ontario)

The Board endorsed the Record as follows:

"For the reasons given at the hearing, namely that the applicant failed to adduce evidence as to the origination of the document filed in support of this application, this application is accordingly dismissed."

4728-62-R: The Employees of Lakeview Pure Milk Dairy Ltd., Barrie, Ontario (Applicant) v. Local 647 Teamsters Union, 3199 Bathurst Street, Toronto (Respondent). (63 employees).

(Re: Lakeview Pure Milk Dairy Ltd.,
Barrie, Ontario)

The Board endorsed the Record as follows:

"This is an application for declaration terminating bargaining rights of the respondent.

The respondent was certified as bargaining agent for certain employees of Lakeview Pure Milk Dairy Limited at Barrie on the 18th day of June, 1962, and one year has not elapsed since the date of certification.

The Board is satisfied that pursuant to the provisions of section 43 (1) of The Labour Relations Act, this application is untimely.

In view of these circumstances and in accordance with the provisions of section 45 of the Board's Rules of Procedure, the Board is of opinion that the applicant has failed to make a prima facie case for the remedy requested and the application is therefore dismissed."

APPLICATIONS UNDER SECTION 34(5) OF THE ACT DISPOSED OF

4453-62-M: Operative Plasterers' and Cement Masons' International Association of the United States and Canada Local 117-C (Applicant) v. Warwick Construction Company Ltd. (Respondent). (TERMINATED).

The Board endorsed the Record as follows:

"Under date of October 4, 1962, the Deputy Minister of Labour informed the Board as follows:
"In view of the fact that the parties have composed their difficulties, I withdraw on behalf of the Minister of Labour the reference to the Ontario Labour Relations Board to determine whether or not there was a collective agreement on foot binding the above-mentioned parties." The proceeding is therefore terminated."

4525-62-M: J. Gallo Excavating & Grading Limited (Applicant) v. Teamsters' Local Union No. 230 (Respondent).

The Board endorsed the Record as follows:

"On October 3, 1962, the Registrar received a telegram from counsel for the parties in this matter advising the Board that "THE UNION HAS WITHDRAWN THE GRIEVANCE WHICH INITIATED THESE PROCEEDINGS . . . THE PARTIES THEREFORE REQUEST THE MINISTER OF LABOUR TO WITHDRAW THE REFERENCE DATED SEPTEMBER FOURTEENTH TO

THE BOARD . . . " The Registrar forwarded a copy of this telegram to the Deputy Minister of Labour who has now informed the Board as follows: "Under the circumstances, for the Minister of Labour, I withdraw the reference made to the Ontario Labour Relations Board under date of September 14, 1962 as to the existence of a collective agreement binding on the above-mentioned parties." The proceeding is accordingly terminated."

APPLICATION FOR DECLARATION THAT LOCKOUT UNLAWFUL DISPOSED OF
DURING OCTOBER 1962

19,654-60: Lumber and Sawmill Workers Union, Local 2693, of the United Brotherhood of Carpenters and Joiners of America (Applicant) v. Anderson Block & Tile Limited. (WITHDRAWN)

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF DURING
OCTOBER 1962

4539-62-U: John Inglis Co. Limited (Applicant) v. Dennis Crick (Respondent). (WITHDRAWN)

4544-62-U: Operative Plasterers' and Cement Masons' International Association of the United States and Canada, Local Union No. 124 (Applicant) v. E. Cayer & Sons Limited (Ottawa-Hull) (Respondent). (GRANTED)

The Board endorsed the Record as follows:

"That the said respondent did contravene section 12 of The Labour Relations Act in that on and after November 13th, 1961, the respondent did refuse to bargain in good faith and made every reasonable effort to make a collective agreement."

4574-62-U: Amalgamated Clothing Workers of America (Applicant) v. Deacon Brothers Sportswear Limited (Respondent). (WITHDRAWN)

19655-60: Lumber and Sawmill Workers Union, Local 2693 of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. Anderson Block & Tile Limited (Respondent). (WITHDRAWN)

19656-60: Lumber and Sawmill Workers Union, Local 2693 of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. Anderson Block & Tile Limited (Respondent). (WITHDRAWN)

19657-60: Lumber and Sawmill Workers Union, Local 2693 of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. Anderson Block & Tile Limited (Respondent). (WITHDRAWN)

20151-60: Lumber and Sawmill Workers Union, Local 2693 of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. Anderson Block & Tile Limited (Respondent). (WITHDRAWN)

APPLICATIONS UNDER SECTION 65 DISPOSED OF DURING OCTOBER 1962

3952-62-U: United Packinghouse, Food and Allied Workers, (Complainant) v. Sky Line Farms Limited (Respondent).

4215-62-U: International Union of Doll & Toy Workers of the U.S.A. and Canada (Complainant) v. Regal Toy Limited (Respondent).

4226-62-U: International Union of Doll & Toy Workers of the U.S.A. and Canada (Complainant) v. Regal Toy Limited (Respondent).

4441-62-U: Lumber and Sawmill Workers' Union, Local 2537 of The United Brotherhood of Carpenters and Joiners of America (Complainant) v. K.W. Bigelow & Lumber Co. Ltd. (Respondent).

4466-62-U: Lumber and Sawmill Workers Union, Local 2693, of the United Brotherhood of Carpenters and Joiners of America (Complainant) v. George Feniuk (Respondent).

4467-62-U: Local 2693, Lumber and Sawmill Workers Union of the United Brotherhood of Carpenters and Joiners of America (Complainant) v. George Feniuk (Respondent).

4522-62-U: Lumber and Sawmill Workers Union, Local 2693, of The United Brotherhood of Carpenters and Joiners of America (Complainant) v. George Feniuk (Respondent).

4628-62-U: The International Hod Carriers' Building and Common Labourers Union of America, Local # 1250 (Complainant) v. Interprovincial Paving Co. Ltd. (Respondent).

4629-62-U: Henry R. Bartenbach (Complainant) v. Riverdale Frozen Foods Ltd. (Respondent).

4763-62-U: International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 419, Warehousemen and Miscellaneous Drivers (Complainant) v. The Toronto Salt Works Limited (Respondent).

REQUEST FOR REVIEW IN CERTIFICATION APPLICATIONS DISPOSED OF
BY THE BOARD

2810-62-R: Retail Clerks Union Local 409, Chartered by Retail Clerks International Association (Applicant) v. Shop Easy Stores Limited (Port William) (Respondent). (GRANTED JUNE 1962)

- and -

3176-61-R: Retail Clerks Union Local 409, Chartered by Retail Clerks International Association (Applicant) v. Shop Easy Stores Limited (City of Port Arthur) (Respondent). (GRANTED JUNE 1962)

(THE ABOVE MATTERS ARE CONSOLIDATED).

On October 23rd, 1962 the Board further endorsed the Record as follows:

"The respondent, by letter dated September 21, 1962, requests that it be given an opportunity to produce certain facts before the Board, alleging that it was not permitted to produce such evidence.

The following is a brief review of the course of the proceedings in these matters.

On January 25, 1962, the applicant applied for certification of certain employees of the respondent in Port William. At the hearing before the Board held on February 12, 1962, it became apparent that the parties were in disagreement on the inclusion or exclusion of certain of the employees in the bargaining unit. In addition, the representative of the respondent took the position that an appropriate bargaining unit would include its employees at Port Arthur as well as at Fort William.

On February 19, 1962, the Board appointed an examiner to inquire into and to report to the Board on the duties and responsibilities of assistant managers, department managers and the interchange between stores in Port Arthur and Fort William. The Examiner met with the parties on March 20, 1962. In due course the report of the examiner, dated March 30, 1962, was issued to the parties. That report concludes as follows:

"A full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues before me was afforded to all parties".

Accompanying the report as issued to the parties was Form 47.

By letter dated April 9, 1962, the respondent made certain statements with respect to the duties and responsibilities of Mr. Bulger, one of the persons whose duties and responsibilities were in question. The letter did not request a hearing as such but concluded with the following statement:

"The undersigned will attend in person or by a representative any hearing directed by the Board in connection with this statement".

A copy of this letter was forwarded to the applicant for its comments. By letter dated April 16, 1962, the applicant replied to the statements contained in the respondent's letter of April 9, 1962, and a copy of the applicant's letter was forwarded to the respondent. The respondent made no further comments.

In a supplemental report of the examiner dated the 2nd of May, 1962, the examiner stated that he was "placing these letters with the Board to be discussed at the Executive Session at which this case is considered by it". Copies of the two letters of April 9th and April 16th, 1962, were attached as exhibits to the report. This report along with Form 47 was duly served on the parties. The respondent did not file with the Board a statement of objections and desire to make representations following the issuance of the supplemental report.

On March 6, 1962, the applicant applied to the Board for certification for certain employees of the respondent in Port Arthur. A hearing on this application was held before the Board on March 27, 1962, following which the Board appointed an examiner to inquire into and to report to the Board on the same matters as in the Fort William application. The examiner issued his report on May 2, 1962. Attached to the report as an exhibit was a letter from the respondent dated April 13, 1962, in which, among other things, the respondent stated that it "would attend ... any hearing directed by the Board in connection with" the application affecting the Port Arthur stores.

Following the issue of the report there were no further communications from either of the parties.

In considering the two applications, the Board did not have before it a formal request for a further hearing by either of the parties. The Board did not deem it necessary for its purposes to direct a further hearing since it considered it had all the evidence and representations of the parties before it. In fact, in arriving at its decision the Board acted on the assumption that the statements made by the respondent in its letter of April 9, 1962, were true in every respect.

The Board's decisions in these matters were dated June 8, 1962, and copies of the decisions were mailed to the parties by letter dated June 13, 1962. It would appear from the respondent's letter of September 21, 1962, that nothing was done by the respondent to bring its objection to the attention of the Board until September 18, 1962, and no formal request was made until September 21, 1962.

The respondent in its letter of September 21, 1962, states that it had pertinent facts to produce before the Board affecting the two applications. No indication is given as to the nature of these facts. Having regard to the representations of the parties respecting the consolidation of these applications, the only remaining issue before the Board was as to the inclusion or exclusion of certain employees in the bargaining unit. The proper place to bring out evidence respecting such matters is before the examiner and the first report of the examiner clearly states that full opportunity was afforded the parties to do this. Despite this the Board in reaching its decision did accept at face value the statements made by the respondent in its letter of April 9, 1962. While it may be that the respondent's officers did not fully understand the procedures of the Board, the respondent was nevertheless represented by counsel at least on the first application. In these circumstances the Board is unable to see how the respondent can now claim that it has been prejudiced in the presentation of its case.

In any event, even if the respondent was in fact prejudiced, there must be some onus on a party to take reasonably prompt steps to bring such a matter to the attention of the Board. Were it otherwise, the Board's business would never be completed and other parties to the proceedings would be placed in an uncertain and therefore prejudicial position.

In the present case the respondent did nothing about the decision of the Board for at least two months. The Board cannot help but feel that if the respondent believed that it had been treated unfairly it would and should have taken immediate action to notify the Board. Such was not the case here.

In all these circumstances, therefore, the request of the respondent as contained in its letter of September 21, 1962, is denied."

CERTIFICATION INDEXED ENDORSEMENTS

3529-61-R: Local 173, International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America (Applicant) v. Dare Foods (Biscuit Division) Limited (Respondent) v. Dare's Employees' Association (Intervener).

- and -

3798-62-R: Local 173, International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America (Applicant) v. Dare Foods (Biscuit Division) Limited (Respondent) v. Dare's Employees' Association (Intervener).

(THE ABOVE MATTERS ARE CONSOLIDATED).

The Board endorsed the Record as follows:

"A pre-hearing representation vote was taken in this case on Thursday, August 2, 1962, and the majority of the ballots cast were marked in favour of the applicant. The intervener, which is the incumbent, contends that the representation vote should be disallowed on two grounds dealt with below:

(1) The intervener contends that the respondent infringed the Registrar's direction that all interested persons refrain from electioneering and propaganda during a stipulated period. Counsel for the intervener announced at the hearing that he proposed to adduce evidence to show that a speech was made by an officer of the respondent during the prohibited period but that he would have very little evidence to present as to its contents. His sole witness was C. E. Graham, the president of the intervener, who testified that K. K. O'Hara, the vice-president of the respondent company, convened and addressed meetings of each of the three shifts operating in the plant. On the evidence before us we are unable to find that the speeches constituted propaganda or electioneering as contemplated in the Board's

rule. In the alternative, even if they are to be construed as propaganda or electioneering, we would regard them as being propaganda or electioneering in favour of the intervener, and the intervener can scarcely be heard to complain of propaganda in support of its cause. In the circumstances of this case, we find that the intervener has not satisfied the onus resting upon it to prove its case in so far as this objection is concerned and the objection is accordingly overruled.

(ii) The list of eligible voters was agreed to by all parties and subsequently certain persons were struck off the list and certain persons were added to the list on consent of the parties. The result was that at the "start of the vote" there was 313 names on the list. Four names were subsequently added, again on consent of the parties, making a total of 317. Two hundred and ten persons cast ballots. At the conclusion of the balloting, the representatives of the parties, including Graham for the intervener, agreed that 100 names should be struck off the list under the provisions of section 7 (4) of The Labour Relations Act. In the statement of objections filed by counsel for the intervener, objection is taken to the striking off of the 100 names. However, at the hearing we were informed that the intervener was objecting to the striking off of only 78 of the 100. The ground for the objection is that, the 78 persons concerned were, according to the intervener, on vacation at the time of the vote, that their last day of work was Friday, July 27th, and that therefore they had no knowledge at the time when they left on their vacation as to when the vote would take place, since the Board's official notice of the taking of the vote was not posted on the employer's premises until Monday, July 30th. The vote took place on August 2nd.

The parties all agreed on the two alternate dates on which the vote should be taken and the Registrar directed that the vote be held on the second of such dates. Counsel for the applicant informed us at the hearing that, at the meeting of the parties at which the arrangements for the vote were made, those in attendance discussed the likelihood that employees would be absent during the time when the vote was taken; this statement was not challenged by counsel

for the intervener. In agreeing on the alternate dates for the vote, therefore, the representatives of the interveners must have taken into account the possibility of absenteeism and the extent of absenteeism. Although the Board's official notice was not posted until Monday, July 30th, the applicant distributed to the employees a leaflet stating that the applicant union had just been notified by telephone that the vote would be taken on August 2nd. This leaflet was distributed to employees on the night-shift on the evening of July 26th and to day-shift employees on July 27th. In addition, on July 26th some 300 copies of the leaflet were mailed by the applicant to all employees whose addresses were available to the applicant.

Two points of particular significance emerge from these facts: (i) immediately after the vote was taken and before the votes were counted, Graham, the official representative of the intervener, agreed that 100 names would be struck off the list although he must have been aware of the circumstances; (ii) despite the fact that Form 50, Notice of Report of Returning Officers, was posted in the plant, no statement of objections has been filed by any employee alleging that he was deprived of an opportunity to cast a ballot and no evidence has been produced to show that any employee on vacation might have cast a ballot had the notice been posted earlier. Having regard to the evidence in general, and to these two considerations in particular, the second objection of the intervener is also overruled.

Having regard to the findings of the Board set out above, we find that, on the taking of the pre-hearing representation vote directed by the Board more than fifty per cent of the ballots of all those eligible to vote were cast in favour of the applicant."

4610-62-R: United Brotherhood of Carpenters and Joiners of America, A.F.L., C.I.O., C.L.C. (Applicant) v. Ball Brothers Limited (Respondent). (GRANTED OCTOBER 1962)

"It is clear that in considering an appropriate bargaining unit the Board has regard for the history of collective bargaining of an applicant in the area under consideration. (See Konvey Construction Company Limited, O.L.R.B. Monthly Report January, 1961, p. 359). It is also clear that the Board in examining the history of collective bargaining in an area has not distinguished between an international and a local or a district council of its locals. Having

regard to the history of collective bargaining between the Western Ontario District Council of the applicant and the general contractors section of the London Builders Exchange and to the fact that a considerable number of contractors, non-resident in the area covered by the collective agreement, have signed similar agreements with the District Council (including it may be pointed out one other Kitchener company, namely Laverne Assmussen Ltd.) the Board finds at this time that all carpenters and carpenter apprentices employed by the respondent in the Counties of Oxford, Perth, Huron, Middlesex, Bruce and Elgin save and except non-working foremen and persons above the rank of non-working foreman, constitute a unit of employees of the respondent appropriate for collective bargaining."

4615-62-R: Bricklayers and Masons Union, Local No. 1 Ontario
(Applicant) v. Newman Brothers Construction Limited (Respondent).
(GRANTED OCTOBER 1962)

The Board endorsed the Record as follows:

"The Board further finds that the letter of intent filed by the respondent dated July 6, 1962, and addressed to Mr. W. McDowell is not a collective agreement within the meaning of The Labour Relations Act. It is clear that the applicant did not accept this offer. (See The Canada Machinery Corporation Case (1961) C.C.H. Canadian Labour Law Reports, 416,194; C.L.S. 76-729).

Having regard to the pattern of collective bargaining in the Hamilton area including the fact that a number of contractors, non-resident in the area covered by the collective agreements, have signed collective agreements with the applicant covering the same area as that contained in the collective agreement between the applicant and The Masonry Contractors' Section of the Hamilton Construction Association and Builders' Exchange, the Board at this time further finds that all bricklayers, bricklayer apprentices, stone masons and stone mason apprentices in the employ of the respondent in the County of Wentworth; the County of Halton, except that portion East of Sixteen Mile Creek from the Lakeshore to the Queen Elizabeth Highway and that portion East of the Sixth Line North from the Queen Elizabeth Highway; Townships of North and South Grimsby and Caistor in the County of Lincoln; and the County of Haldimand except Townships of Moulton and Dunn, save and except non-working foremen and persons above the rank of non-working foreman, constitute a unit of employees of the respondent appropriate for collective bargaining.

PART 2

STATISTICAL TABLES

1. Applications and Complaints to the Ontario Labour Relations Board	S30
2. Hearings of the Ontario Labour Relations Board	S30
3. Applications and Complaints Disposed of by Ontario Labour Relations Board	S31
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5. Representation Votes in Certification Applications Disposed of by Board	S34
6. Representation Votes in Termination Applications Disposed of by Board	S34

TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

Type of Application	Number of applications filed		
	<u>October</u> <u>1962</u>	<u>1st 7 months of fiscal year</u> <u>62-63</u>	<u>61-62</u>
I Certification	53	453	483
II Declaration Terminating Bargaining Rights	5	43	41
III Declaration of Successor Status	1	10	1
IV Conciliation Services	115	773	675
V Declaration that Strike Unlawful	-	26	33
VI Declaration that Lockout Unlawful	-	7	1
VII Consent to Prosecute	3	66	73
VIII Complaint of Unfair Practice in Employment (Section 65)	11	76	86
IX Miscellaneous	<u>3</u>	<u>17</u>	<u>12</u>
TOTAL	<u>191</u>	<u>1471</u>	<u>1405</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	Number		
	<u>October</u> <u>1962</u>	<u>1st 7 months of fiscal year</u> <u>62-63</u>	<u>61-62</u>
Hearings & Continu- ation of Hearings by the Board	139	741	559

TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

	Number of appl'ns disposed of		
	October 1962	1st 7 months of fiscal year 62-63	61-62
I Certification	77	481	459
II Declaration Terminating Bargaining Rights	11	48	32
III Declaration of Successor Status	-	1	8
IV Conciliation Services	102	731	701
V Declaration that Strike Unlawful	-	26	34
VI Declaration that Lockout Unlawful	2	8	1
VII Consent to Prosecute	7	51	71
VIII Complaint of Unfair Practice in Employment (Section 65)	10	77	77
IX Miscellaneous	<u>2</u>	<u>8</u>	<u>13</u>
TOTAL	<u>211</u>	<u>1431</u>	<u>1396</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD BY TYPES AND BY DISPOSITION

Disposition				*Employees		
	Oct. 1962	1st 7 mos. 62-63	fiscal yr. 61-62	Oct. 1962	1st 7 mos. 62-63	fiscal yr. 61-62

I Certification

Granted	51	323	287	15994	23201	7451
Dismissed	22	113	110	495	7570	4661
Withdrawn	<u>4</u>	<u>45</u>	<u>62</u>	<u>117</u>	<u>1528</u>	<u>1756</u>
TOTAL	<u>77</u>	<u>481</u>	<u>459</u>	<u>16606</u>	<u>32299</u>	<u>13868</u>

II Termination of Bargaining Rights

Terminated	6	30	12	157	786	284
Dismissed	4	11	18	171	374	509
Withdrawn	<u>1</u>	<u>7</u>	<u>2</u>	<u>16</u>	<u>208</u>	<u>64</u>
TOTAL	<u>11</u>	<u>48</u>	<u>32</u>	<u>344</u>	<u>1368</u>	<u>857</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S33 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

	Number of appl'ns disposed of		
	Oct. <u>1962</u>	1st 7 mos. <u>62-63</u>	fiscal year <u>61-62</u>
III <u>Conciliation Services*</u>			
Referred	80	647	663
Dismissed	2	14	9
Withdrawn	<u>20</u>	<u>70</u>	<u>29</u>
TOTAL	<u>102</u>	<u>731</u>	<u>701</u>
IV <u>Declaration that</u> <u>Strike Unlawful</u>			
Granted	-	6	4
Dismissed	-	7	2
Withdrawn	<u>-</u>	<u>13</u>	<u>28</u>
TOTAL	<u>-</u>	<u>26</u>	<u>34</u>
V <u>Declaration that</u> <u>Lockout Unlawful</u>			
Granted	-	1	-
Dismissed	-	4	1
Withdrawn	<u>1</u>	<u>2</u>	<u>-</u>
TOTAL	<u>1</u>	<u>7</u>	<u>1</u>
VI <u>Consent to</u> <u>Prosecute</u>			
Granted	1	11	13
Dismissed	-	6	9
Withdrawn	<u>6</u>	<u>34</u>	<u>49</u>
TOTAL	<u>7</u>	<u>51</u>	<u>71</u>

*Includes applications for conciliation services re unions claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED
OF BY THE BOARD

	Oct. '62	Number of Votes	
		1st 7 months of fiscal yr.	
		62-63	61-62
<u>*Certification After Vote</u>			
pre-hearing vote	8	26	30
post-hearing vote	3	16	25
ballots not counted	-	2	-
<u>Dismissed After Vote</u>			
pre-hearing vote	1	13	13
post-hearing vote	10	37	34
ballots not counted	-	1	-
TOTAL	<u>22</u>	<u>95</u>	<u>102</u>

* Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF BY
THE BOARD

	Oct. '62	Number	
		1st 7 months of fiscal yr	
		62-63	61-62
*Respondent Union Successful	-	5	2
Respondent Union Unsuccessful	<u>6</u>	<u>12</u>	<u>11</u>
TOTAL	<u>6</u>	<u>17</u>	<u>13</u>

* In termination proceedings where a vote is taken, the application is a group of employees, or the employer; the incumbent union is thus the respondent.

MONTHLY REPORT



NOVEMBER 1962

ONTARIO LABOUR RELATIONS BOARD

P R A C T I C E N O T E S

IT IS THE INTENTION OF THE BOARD TO ISSUE FROM
TIME TO TIME PRACTICE NOTES ON VARIOUS MATTERS.
THESE PRACTICE NOTES ARE FOR THE GENERAL GUIDANCE
AND INFORMATION OF PERSONS WHO MAY HAVE RESORT
TO THE BOARD. THEY SET OUT THE GENERAL PROCEDURES
THAT THE BOARD HAS EVOLVED ON THE MATTER WITH
WHICH THE PRACTICE NOTE DEALS UP TO THE TIME IT IS
ISSUED.

PRACTICE NOTE #4

December 10, 1962

PROCEDURE OF EXAMINER'S INQUIRY
INTO DUTIES AND RESPONSIBILITIES

1. Where an Examiner is appointed by the Board to inquire into the duties and responsibilities of persons or classes of persons whose status is in issue, the parties will be advised by the Registrar, in writing, of the name of the Examiner so appointed.
2. The Examiner will subsequently advise the parties of the time and place of the examination. The Examiner usually attempts to give approximately one week's notice of such examination.
3. (a) If the persons embraced in the Examiner's appointment are in the employ of the employer at the time of the inquiry, the employer will be expected to have such persons available on the date fixed so that they can be produced as required by the Examiner.

 (b) If the persons embraced in the Examiner's appointment left the employ of the employer before the date of the inquiry, the employer will be expected to notify the Examiner to this effect at the earliest opportunity and the Examiner will thereupon confer with the parties in order to determine what action should be taken.
4. The evidence adduced before the Examiner is

not taken under oath except where specific instructions are given by the Board.

5. After the Examiner has asked a witness whatever questions he deems necessary concerning the duties and responsibilities of the persons or classifications in question, each party will be given full opportunity to ask any further questions and call any additional witnesses to give evidence in support of its position.

6. All the evidence concerning the matters which he is authorized to inquire into must be placed before the examiner and subject to the exceptions noted below, no party will be afforded an opportunity to supplement its evidence at any subsequent hearing before the Board.

7. Where the parties reach an agreement on any matter in issue, the Examiner will attempt to have the parties reduce the agreement in writing and verify such agreement by their signatures.

8. In a case where an Examiner is inquiring into the duties and responsibilities of an occupational classification and there is more than one person in an occupational classification, the Examiner is to interview all the persons within the classification, unless the parties agree that one person, and only one, is to be interviewed by the Examiner and that the evidence taken from him shall be representative of the duties and responsibilities of all of the other persons in the classification or any named persons within the classification. This rule is not to be changed regardless of any

agreement made by the parties, except where several persons in a classification have been examined and the parties then agree that one of such persons is representative of all persons in such classification or any named persons within the classification and that the Examiner need only report his examination of the one person who is agreed to be representative of the classification. Such agreement must be noted in the Examiner's report. It is the responsibility of the parties to have available any other witnesses who they require to give evidence on their behalf.

9. At the conclusion of an examination of witnesses called by the Examiner, the Examiner will ask the following question: "Do any of the parties wish to call any (further) witnesses concerning the matters that the Board has referred to me for inquiry and report"? An answer to this question must be obtained from counsel for, or the representative of, each of the parties present at the inquiry and the answer recorded in the Examiner's note book. If the answer given on behalf of any party to this question is in the affirmative, the Examiner will afford an opportunity to that party to call witnesses, who will, of course, be subject to cross-examination by the other parties.

10. If a party wishes to present evidence on matters that the Examiner considers to be beyond the scope of his authority to entertain, the Examiner will not permit such evidence to be adduced but shall obtain from the party and record in his report a brief statement of the nature of

the evidence proffered and shall note his ruling with respect to such evidence. The party is to be advised that it has the right to challenge the Examiner's ruling by making representations in writing to the Board.

11. If none of the parties desire to call any witnesses, or if the parties have called all their witnesses and the Examiner has not refused to entertain any of the evidence submitted, the Examiner will state in his report that full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues before him was afforded to all parties. If the Examiner has rejected certain testimony proffered by one of the parties, he will indicate that full opportunity to be heard was afforded the parties except with respect to the evidence rejected.

12. When the Examiner has completed his examination, he will immediately prepare a report of his examination and a copy of this report will be served on all parties, together with a notice of the report in Form 47 of the Board's Rules of Procedure.

13. Any person who is served with a notice of the report and has any objections or desire to make representations concerning the report shall do so in the form prescribed by subsection 1 of section 49 of the Board's Rules of Procedure not later than the date indicated on the notice of the report (Form 47).

14. Objections to the Examiner must be limited to:

- (a) Statements in the report of the Examiner which the objector claims do not correspond to the evidence adduced at the examination.
- (b) Additional evidence which was tendered by the parties to the Examiner but which was ruled inadmissible by the Examiner at the time of the examination.
- (c) New evidence which could not have been discovered by reasonable diligence at the time of the examination.

15. A party may also file a statement of objections and desire to make representations, not for the purpose of challenging the accuracy of the Report of the Examiner, but rather for the purpose of affording the party an opportunity to present argument before the Board as to the effect to be given to the statements contained in the Report of the Examiner.

16. Except in construction industry cases where the Registrar receives a statement of objections and desire to make representations on the Report of the Examiner filed in the form and manner required by section 41 of the Board's Rules of Procedure, the Board will direct a hearing before it and the Registrar will serve on each of the parties a notice of hearing. See section 77 (3) of the Board's Rules of Procedure and Regulations.

17. The Board may also, on its own initiative, direct a hearing with reference to the report of the Examiner. Where a hearing is directed by the Board, the Registrar will serve each of the parties to the proceeding with a notice of hearing.

Practice Note #5

December 10, 1962.

SERVICE OF DOCUMENTS AND NOTIFICATION
OF PROCEEDINGS BY THE BOARD

Having regard for the many difficulties experienced by the Board in the service of copies of notices, documents and correspondence relating to proceedings before it, it is the intention of the Board to alter its practice, effective Monday, December 31, 1962, and to proceed as follows:

1. One copy of all notices, documents and correspondence will be served by the Board on each of:
 - (a) the parties to the proceedings
 - (b) the parties named in the proceedings as having an interest
 - (c) persons whom the Board believes to have an interest
2. In addition to the foregoing, each of the parties or persons so served will be allowed to inform the Board in writing of the name and address of one additional designated person and the Board will serve on such person a copy of all notices, documents and correspondence in the proceedings.

If during the course of any proceedings, a party notifies the Board that it desires the additional copy of such notices, documents and correspondence to be served on a different designated person (whose name and

address must be given) all subsequent notices, documents and correspondence will be served on the new person designated and no further service will be made on the former designated person.

Where in any case, a counsel or advocate is named as representing a party, a copy of all subsequent notices, documents and correspondence in that case, will be served on such counsel or advocate in addition to the other services set out herein.

3. As a convenience to parties appearing regularly before the Board, the Board will open a register of designated persons, and each party may notify the Board in writing of the name and address of one person whom it wishes to be notified of all proceedings affecting such a party and where a party has so named a designated person, it will not be necessary in each proceeding to designate such person to receive the one additional copy of the notices, documents and correspondence unless the name of the designated person in the particular proceedings is to be some one other than the person appearing in the register.

4. As a consequence of the above new procedure, the Board will no longer be able to give effect to arrangements previously entered into, and effective December 31, 1962 the Board will serve copies of notices, documents and correspondence only in accordance with the provisions of this practice note.

N.B. Service on persons other than the parties to the proceedings and their counsel or advocates is a matter of courtesy only.

PRACTICE NOTE #6

CONSTRUCTION INDUSTRY

Where a trade union applies for certification on Form 54 (Application for Certification, Construction Industry), the application should contain a concise statement of the facts, materials and representations upon which the applicant intends to rely. This is particularly important in construction industry cases where there may not be a hearing and where, therefore, if the application is to be disposed of quickly, it is essential that the respondent be made aware of the applicant's case as soon as possible.

The purpose of this note is to outline some of the things which applicants should include in their application, or file along with it.

- (1) Where the applicant is a local union, the area over which the local has jurisdiction should be clearly and fully defined.
- (2) In addition, the source of that jurisdiction should be indicated, e.g., whether detailed in the local's Charter or in some directive from the International, or as a result of agreement among locals of a District Council, past practice, etc.
- (3) If the jurisdiction of the applicant overlaps with that of some other local or council of locals, this fact should be made clear, and the extent of the overlapping indicated.
- (4) Where the jurisdiction is formally spelled out in the Charter or other document, typed or photographic copies of these documents should accompany the application. These copies will be retained on file with the Board and in succeeding cases it will only be necessary to refer, in the application, to the fact that they are on file with the Board.
- (5) In support of its submission with respect to the appropriate bargaining unit the applicant should include the following information:

- (a) Any information which it has respecting:
 - 1) Head Office of the respondent.
 - 2) Branch Offices, if any (permanent or temporary) in the area which the applicant claims to be appropriate, and

- 3) Previous job history and pending contracts of the respondent in the area which the applicant claims to be appropriate.
 - (b) Previous certifications for the area or any portion thereof which the applicant claims to be appropriate.
 - (c) Collective agreements between the applicant (including those entered into by the parent union or a council of trade unions, or any other local of the parent union) and any employer or employers' association covering the area or any portion thereof which the applicant claims to be appropriate.
 - (d) In dealing with (c) above, the applicant should state whether the employer is a resident of the area or a non-resident, and in each case indicate the residence of the employer.
 - (e) Applicants should file with the application copies of collective agreements on which it intends to rely. If copies are already on file with the Board, this fact should be noted in the application.
- (6) It is emphasized once again, that if all the above information is not contained in the application or filed along with it, this may result in delaying the decision of the Board in the case.

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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD DURING NOVEMBER 1962

2660-61-R: Lumber and Sawmill Workers Union, Local 2693, of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. Dave Regan (Respondent).

Unit: "all employees of the respondent engaged in woods operations within a 15 mile radius of the Hamlet of Hematite in the District of Rainy River, save and except foremen, persons above the rank of foreman, office staff and scalers." (14 employees in the unit).

3397-61-R: Lumber & Sawmill Workers Union Local 2537 of the United Brotherhood of Carpenters & Joiners of America (Applicant) v. A. & L. Lafreniere Lumber Limited (Respondent).

Unit: "all employees of the respondent employed in the operation of the respondent's Planer Mill at Chapleau, save and except foremen, persons above the rank of foreman, and office staff." (8 employees in the unit).

3402-61-R: The Lumber & Sawmill Workers Union Local 2537 of The United Brotherhood of Carpenters & Joiners of America (Applicant) v. A. & L. Plywood Limited G.A. Payette A. & L. Lafreniere Lumber Limited (Respondent).

Unit: "all employees of G. A. Payette in Chapleau, save and except foremen, persons above the rank of foreman, office staff and scalers." (37 employees in the unit).

3415-62-R: Food Handler's Local Union 175 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Busy B Discount Foods Limited (Respondent).

Unit: "all employees of the respondent in the Township of Westminster regularly employed for not more than 24 hours per week, save and except assistant store manager, meat department manager, persons above the rank of assistant store manager and meat department manager and office staff." (20 employees in the unit).

3602-62-R: International Hod Carriers' Building and Common Laborers Union of America, Local 607 (Applicant) v. Macquill Construction Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent in the District of Rainy River, save and except non-working foremen and persons above the rank of non-working foreman." (18 employees in the unit).

On September 24, 1962 the Board endorsed the Record as follows:

"This case came on for hearing on May 17, 1962, before a division of the Board consisting of J. D. O'Shea, Deputy Vice-Chairman, and Board Members Edmund Boyer and Colin C. Young. Following a hearing, an examiner was appointed to inquire into and report to the Board on certain matters. His report, dated July 30, 1962, was released to the parties in the usual fashion. Objections having been taken to the report by the parties, the matter was again listed for continuation of hearing on September 10, 1962. In the latter part of August the Chairman of the division took ill. It being apparent that the illness was a serious one and there being no indication of an early return of the Chairman, the parties were asked if they would agree to the substitution of another chairman to dispose of the outstanding issues. The applicant gave its consent but the respondent did not agree to the substitution.

The parties were then notified that the case would be heard by a new division of the Board on the date originally scheduled for the hearing. The parties were also notified that the division would inquire into and hear all issues in the case. In other words the case would be heard again from its inception. At this hearing the respondent, by way of a preliminary objection, took the position that the new division of the Board set up to hear the case had no jurisdiction to do so; that the division of the Board which heard the case in May was seized with it and must complete it. Counsel for the respondent cited no authority but pointed out that The Labour Relations Act did not specifically authorize such a procedure. In answer to a question as to what the Board should do if a member of a division were to die, counsel stated simply that he was not called on to deal with that problem. When asked to indicate how the respondent might be prejudiced by the course proposed by the Board, counsel stated that he was not relying on prejudice but on the fact that the division of the Board which now proposed to hear the case from its inception had no jurisdiction to do so.

The representative of the applicant referred to section 77(3) of The Labour Relations Act.

It appears that the project on which the employees affected by the application are working will be completed in a course of the next 2 or 3 months. It seems likely, on the information presently at hand,

that if the disposition of the case must await the return of the Deputy Vice-Chairman who chaired the original division, the project will be completed or so nearly completed that if that division were eventually to issue a certificate to the applicant it would have little meaning in so far as the employees on this job are concerned. This is particularly true when one considers the steps which may have to be taken under The Labour Relations Act during negotiations for a collective agreement.

In all these circumstances we are of the opinion that this matter should be listed for hearing before a division of the Board consisting of persons different from those constituting the original division. At this hearing all issues in the case will be inquired into as though the case were being heard for the first time. The report of the examiner has been released to all parties and will be treated as evidence before the new division. If, as indicated by counsel for the respondent, he indicates to call further evidence with respect to the matters raised in the report he will be entitled to call such evidence since the case must now be treated as an original inquiry. However, the respondent should file with the Board in advance of the hearing, notice of any intention to do so together with sufficient particulars thereof so that the applicant will be in a position to know the case it has to meet.

The Registrar is directed to list the case for hearing in Port Arthur.

If, in the mean time, Deputy Vice-Chairman O'Shea should return to the Board, the parties will be notified and the matter listed forthwith for hearing in Toronto."

3597-62-R: The National Union of Public Employees (Applicant) v. Municipality of Metropolitan Toronto (Respondent) v. Toronto Municipal Employees' Association, Local 79 (Intervener).

Unit: "all persons employed by the respondent at the Metropolitan Toronto jail, save and except sergeants, persons above the rank of sergeant, chief engineer, stationary engineers and office staff." (197 employees in the unit).

On November 12, 1962, the Board further endorsed the Record as follows:

"In the course of the hearings in this matter, a question arose as to whether certain employees in the bargaining unit determined above were included

in bargaining units for which the intervener, Toronto Municipal Employees' Association, Local Union No. 79, and Civic Employees Union No. 43 were respectively the bargaining agents. At the hearing of the Board held on October 29, 1962, the representatives of the applicant, the respondent, the intervener and Civic Employees Union No. 43 agreed that the bargaining unit in this matter should be defined in the terms set out above. The representatives of the intervener and of Civic Employees Union No. 43 stated further that, if any of the employees in the bargaining unit so described should appear to come within the bargaining units described in the collective agreements between the respondent corporation and the two unions respectively, they abandon any right they might have to bargain on their behalf.

The Board investigated an allegation that one of the employees, on whose behalf a membership card with an accompanying receipt was submitted by the applicant, did not pay the one dollar fee, the payment of which the receipt purported to acknowledge. If we were to assume for present purposes that no payment was in fact made by the employee concerned, nevertheless, on the evidence before us, we are unable to find that this case would come within the principles set out in the Board's past decisions relating to non-payment in which the whole of the evidence of membership submitted by the applicant would be invalid. It is therefore unnecessary for us to make any specific finding as to whether the requisite fee was or was not in fact paid by the employee concerned. However, we feel it incumbent upon us to point out that the canvasser did not exercise the degree of care in signing up members that we are entitled to expect of a person in such circumstances. No matter how careful a system is devised to ensure that no membership card would be turned in to the union without proper money payment having first been made, the fact remains that the best system is for a canvasser not to sign a receipt or have it countersigned by an employee until payment has actually been made."

Board Member C.C. Young dissented from the majority decision of the Board.

4167-62-R: Sudbury General Workers Union, Local 101 C.L.C. (Applicant) v. Rainbow Ready-Mis Limited (Respondent).

Unit: "all employees of the respondent in Sudbury, save and except foremen, those above the rank of foreman and office and sales staff." (11 employees in the unit).

The Board endorsed the Record as follows:

"For reasons given in writing a certificate will issue."

Board Member R.W. Teagle dissented and said:

"For my reasons given in writing I dissent."

4231-62-R: United Brotherhood of Carpenters and Joiners of America, Local Union No. 93 (Applicant) v. W. D. Laflamme Limited (Respondent).

Unit: "all carpenters and carpenters apprentices in the employ of the respondent at Ottawa save and except non-working foremen and persons above the rank of non-working foreman." (11 employees in the unit).

4423-62-R: Construction and General Laborers' Union, Local 837 (Applicant) v. Stewart-Minan Corporation Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (24 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

4299-62-R: Retail, Wholesale and Department Store Union, AFL:CIO:CLC (Applicant) v. Windsor Office Supply Company (Respondent).

Unit: "all employees of the respondent in Windsor, save and except manager, those above the rank of manager, office staff and outside salesmen." (7 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE)

4407-62-R: United Steelworkers of America (Applicant) v. Air Liquids (Oakville and Toronto) (Respondent).

Unit 1: "all employees of the respondent at Oakville, save and except foremen, chief shippers, persons above the rank of foreman and chief shipper, office and sales staff." (2 employees in the unit).

4433-62-R: Northern Electric Office Employees Association
(Applicant) v. Northern Electric Company Limited (Respondent).

Unit: "all office and clerical employees of the respondent at its Manufacturing Division in the County of Peel, save and except section chiefs, persons above the rank of section chief, engineers, members of the personnel department, nurses, one secretary to the works manager and one secretary to each person reporting directly to the works manager."
(26 employees in the unit).

4468-62-R: International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.)
(Applicant) v. Dominion Sinks Limited (Respondent).

Unit: "all employees of the respondent at Petrolia, save and except foremen, persons above the rank of foreman and office staff." (24 employees in the unit).

The Board endorsed the Record as follows:

"There was filed with the Board a number of documents in opposition to the application. The overlaps that exist between these documents and the documentary evidence of membership of the applicant are not sufficient in number to reduce the applicant to a vote position. Accordingly it is unnecessary for the Board to hold a further hearing in this matter for the purpose of inquiring into the circumstances concerning the origination of the documents and the manner in which the signatures were obtained.

The Board has considered the submission of the respondent that a number of employees "executed Membership Cards in the Applicant Trade Union but did not pay their dues with respect to such application". On the basis of all the evidence before it, and particularly in view of the full disclosure by the applicant of the material facts surrounding the payment of dues by its members, the Board is satisfied that more than fifty-five per cent of the employees of the respondent in the bargaining unit, at the time the application was made, were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure."

4492-62-R: Ready Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers, Local Union No. 230 of the International Brotherhood of Teamsters (Applicant) v. C.A. Pitts General Contractor Limited (Respondent).

Unit: "all truck drivers in the employ of the respondent within a 25 mile radius of Toronto City Hall and including the Town of Newmarket and an area bounded on the East by the Westerly limits of the third concession road, running north and south, east of Yonge Street; on the north by the Southerly limits of the first concession road, running east and west, north of Newmarket; on the west by the easterly limits of the first concession road running north and south, west of Yonge Street."
(11 employees in the unit).

4504-62-R: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. National Refractories Ltd. (Respondent).

Unit: "all employees of the respondent in the Township of Thorold, save and except foremen, persons above the rank of foreman and office staff." (15 employees in the unit).

The Board endorsed the Record as follows:

"In its reply the respondent informed the Board that a collective agreement with Local 165 International Chemical Workers Union, hereinafter referred to as Local 165, dated November 14th, 1950, covered employees affected by this application. Although notified by registered mail by the Registrar of the Board of the application and hearing in this matter, Local 165 did not intervene or appear at the hearing. On the basis of the evidence before it, the Board finds that Local 165 has not sought to bargain with the respondent on behalf of its employees since 1951. In these circumstances the Board finds that Local 165 International Chemical Workers Union must be taken to have abandoned any bargaining rights it acquired under the agreement dated November 14th, 1950. Accordingly the present application is properly before the Board."

4513-62-R: Lumber & Sawmill Workers Unions Local 2537 of the U.B. of C. and J of A. (Applicant) v. Conrad Carreau (Respondent).

Unit: "all employees of the respondent in its sawmill and planer operation in the Sultan area in the District of Sudbury, save and except foremen, persons above the rank of foreman and office staff." (58 employees in the unit).

The Board endorsed the Record as follows:

"For the purposes of clarity the Board declares that the yard crew are employees of the respondent included in the bargaining unit."

4579-62-R: International Association of Machinists (Applicant)
v. Hallman Motors (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (6 employees in the unit).

4580-62-R: International Association of Machinists (Applicant)
v. Seim Bros. Limited (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (6 employees in the unit).

4583-62-R: International Association of Machinists (Applicant)
v. William C. Schopf, carrying on business under the firm name and style of Bill's Garage (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (2 employees in the unit).

4584-62-R: International Association of Machinists (Applicant)
v. Junior's Auto Body (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (4 employees in the unit).

4589-62-R: The Canadian Union of Operating Engineers
(Applicant) v. Chambers & Meridith Ltd. (Respondent).

Unit: "all stationary engineers of the respondent employed in the boiler room at 48 Yonge Street, Toronto, save and except chief engineer." (4 employees in the unit).

4590-62-R: Building Service Employees' International Union
Local No. 204, AFL CIO CLC (Applicant) v. Chambers and Meredith Ltd. (Respondent).

Unit: "all caretaking and maintenance employees of the respondent employed at 48 Yonge Street, Toronto, save and except foremen, foreladies, persons above the ranks of foreman and forelady, stationary engineers, office staff and persons regularly employed for not more than 24 hours per week." (7 employees in the unit).

4621-62-R: International Union of Operating Engineers, Local 944 (Applicant) v. Gordon A. MacEachern Ltd. (Respondent).

Unit: "all stationary engineers in the employ of the respondent in the boiler room of the General Motors Products Company Building at London." (3 employees in the unit).

4671-62-R: Local Union 1766, International Brotherhood of Electrical Workers AFL-CIO-CLC (Applicant) v. The Oakville Public Utilities Commission (Respondent).

Unit: "all office employees of the respondent, save and except manager, accountant-treasurer, persons above the rank of manager and accountant-treasurer and confidential secretaries to the Manager and accountant-treasurer." (21 employees in the unit).

The Board endorsed the Record as follows:

"For the purposes of clarity, the Board declares that professional engineers are persons not included in the bargaining unit by reason of section 1 (3) (a) of The Labour Relations Act."

4676-62-R: The Sudbury and District General Workers' Union Local 902, of the International Union of Mine Mill and Smelter Workers (Applicant) v. Espanola Hotel (Respondent).

Unit: "all employees of the respondent in its beverage rooms and cocktail lounges at Espanola, save and except manager, persons above the rank of manager and persons regularly employed for not more than 24 hours per week." (9 employees in the unit).

4677-62-R: The Sudbury and District General Workers' Union Local 902 of the International Union of Mine Mill and Smelter Workers (Applicant) v. Avenue Hotel (Respondent).

Unit: "all employees of the respondent in its beverage rooms and cocktail lounges at Espanola, save and except manager, persons above the rank of manager and persons regularly employed for not more than 24 hours per week." (4 employees in the unit).

4706-62-R: Upholsterers' International Union of North America (Applicant) v. Heller Furniture Mfg. Ltd. (Respondent).

Unit: "all employees of the respondent in its Toronto plant, save and except foremen, persons above the rank of foreman and office and sales staff." (9 employees in the unit).

4707-62-R: International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 419, Warehousemen and Miscellaneous Drivers, affiliated with the I.B. of T.C.W. & H. of A. (Applicant) v. Amcan Cartage & Storage Co. Ltd. (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office staff." (9 employees in the unit).

4708-62-R: United Brotherhood of Carpenters and Joiners of America, Local 2759 (Applicant) v. Guelph Plywood Company Limited (Respondent).

Unit: "all employees of the respondent at its sawmill at Mattawa, save and except foremen, persons above the rank of foreman and office and sales staff." (9 employees in the unit).

4709-62-R: Toronto Motion Picture Projectionists Union, Local 173, (Applicant) v. Famous Players Canadian Corporation Limited (Respondent).

Unit: "all employees of the respondent in its Trans Canada Telemeter Division in the Township of Etobicoke, save and except supervisors; persons above the rank of supervisor; office, sales and collection staff; and persons covered by a subsisting collective agreement between the applicant and the respondent." (11 employees in the unit).

4726-62-R: United Brotherhood of Carpenters & Joiners of America (Applicant) v. Mabco Construction Co. Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent working in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (9 employees in the unit).

The Board endorsed the Record as follows:

"Having regard to the geographical areas described in the Board's certificates issued in recent months to the International Hod Carriers' Building and Common Laborers' Union of America, Local 837 and the International Union of Operating Engineers, Local 793, to the area covered by the collective agreement between The General Contractors Section of The Niagara Peninsula Builder's Exchange and Signatories and Greater Niagara Ontario Carpenters' District Council and to the fact that a number of St. Catharines contractors are bound by this collective agreement, the Board further finds that all carpenters and carpenters' apprentices in the employ of the respondent working

in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman, constitute a unit of employees of the respondent appropriate for collective bargaining."

4727-62-R: Local Union 3219, United Brotherhood of Carpenters and Joiners of America (Applicant) v. The Board of Education for the Township of North York (Respondent).

Unit: "all employees of the respondent in the Township of North York employed in its Maintenance Department save and except foremen, persons above the rank of foremen, care-takers and office staff." (102 employees in the unit).

4732-62-R: International Union of Operating Engineers Local 796 (Applicant) v. Canadian General Electric Company Ltd. (Respondent). (5 employees in the unit).

Unit: "all stationary engineers employed by the respondent in its power house at Barrie, save and except chief engineer."

4735-62-R: International Hod Carriers Building and Common Labourers' Union of America, Local #749 (Applicant) v. Amelia Construction (Chatham) Ltd. (Respondent).

Unit: "all construction labourers of the respondent employed in the County of Kent, save and except non-working foremen and persons above the rank of non-working foreman." (12 employees in the unit).

4736-62-R: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. United Carr Fastener Company of Canada Limited (Respondent).

Unit: "all employees of the respondent at Colborne, save and except supervisors, persons above the rank of supervisor and office staff." (11 employees in the unit).

4742-62-R: Retail, Wholesale and Department Store Union, AFL:CIO:CLC (Applicant) v. Palace Pier (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except manager, and persons above the rank of manager." (26 employees in the unit).

4743-62-R: International Union of Operating Engineers, Local 866 (Applicant) v. Douglas Memorial Hospital (Respondent).

Unit: "all stationary engineers and persons primarily engaged as their helpers employed by the respondent in the boiler room of its hospital at Fort Erie, save and except the chief engineer and persons above the rank of chief engineer." (5 employees in the unit).

4759-62-R: Textile Workers Union of America, CLC, AFL-CIO (Applicant) v. J. L. White (Yarns) Limited (Respondent).

Unit: "all employees of the respondent at Fenelon Falls, save and except foremen, foreladies, persons above the rank of foreman or forelady, office staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (18 employees in the unit).

4765-62-R: Canadian Construction Equipment Workers' Union, No. 174, National Council of Canadian Labour (Applicant) v. Geo. W. Crothers Limited (Respondent) v. Welders, Public Garage Employees, Motor Mechanics and Allied Workers, Local Union No. 847, affiliated with the I.B. of T., C., W. & H. of A. (Intervener).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office and sales staff." (170 employees in the unit).

The Board endorsed the Record as follows:

"For the purposes of clarity, the Board declares that the parts department personnel including counter men but excluding kardex clerks, telephone order clerks, parts representatives and general office staff, are included in the bargaining unit.

The Board notes the agreement of the parties that the persons classified by the respondent as pricers and parts expeditors are included in the bargaining unit."

4788-62-R: United Steelworkers of America (Applicant) v. Hugh Russel & Sons Limited (Respondent).

Unit: "all employees of the respondent at its Rexdale Plant in Metropolitan Toronto, save and except foremen, persons above the rank of foreman and office staff." (12 employees in the unit).

4793-62-R: International Hod Carriers', Building and Common Labourers' Union of America, Local 1250 (A.F.L. - C.I.O.) (C.L.C.), (Applicant) v. Gordon Mulligan Construction Ltd. (Respondent).

Unit: "all construction labourers of the respondent employed at or working out of Ottawa, save and except non-working foremen and persons above the rank of non-working foreman." (5 employees in the unit).

4805-62-R: International Brotherhood of Teamsters, Chauffeurs Warehousemen and Helpers, Local 938, General Truck Drivers (Applicant) v. Kessler Scrap Disposal Services (Respondent).

Unit: "all employees of the respondent at Oshawa, save and except foremen, persons above the rank of foreman and office staff." (15 employees in the unit).

4806-62-R: United Brotherhood of Carpenters & Joiners of America (Applicant) v. Pigott Structures Limited (Respondent).

Unit: "all carpenters and carpenters apprentices in the employ of the respondent in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (6 employees in the unit).

4807-62-R: Hotel & Restaurant Employees' & Bartenders' International Union. A.F.L.-C.I.O.-C.L.C. (Applicant) v. Elnoral Hotels Ltd. (Respondent).

Unit: "all tapmen, bartenders, beverage waiters, barboys and improvers in the employ of the respondent in its Nordic Hotel and Algodon Motor Hotel at Elliot Lake, save and except managers, persons above the rank of manager and persons regularly employed for not more than 24 hours per week." (11 employees in the unit).

4814-62-R: United Packinghouse, Food and Allied Workers (Applicant) v. Power Super Markets Limited (Respondent).

Unit: "all warehouse employees of the respondent in the Township of Etobicoke, save and except foremen, persons above the rank of foreman, office staff, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (51 employees in the unit).

The Board endorsed the Record as follows:

"The Board notes the agreement of the parties that the store maintenance personal, security personnel, sign painters and cafeteria personnel are not included in the bargaining unit."

4821-62-R: International Hod Carriers Building and Common Labourers Union of America, Local # 597 (Applicant) v. R. I. M. Co. Ltd. (Respondent).

Unit: "all employees of the respondent at the Oshawa Shopping Centre, save and except foremen, persons above the rank of foreman and office staff." (5 employees in the unit).

4824-62-R: International Union of Operating Engineers, Local 700 (Applicant) v. The Pleasant View Lodge-John Noble Home (Respondent).

Unit: "all stationary engineers and apprentice engineers employed by the respondent in its boiler room at the John Noble Home at Brantford." (3 employees in the unit).

The Board endorsed the Record as follows:

"The respondent advised the Board that the respondent is a home for the aged operated by a joint Board of the City of Brantford and the County of Brant. The County of Brant enacted a by-law wherein the County of Brant declared that The Labour Relations Act does not apply to it in its relations with its employees or any of them, pursuant to the provisions of section 89 of the Act.

The Board finds that the by-law enacted by the County of Brant does not apply to the employees of the respondent in their relations with the respondent."

4829-62-R: The National Union of Public Employees (Applicant) v. The Corporation of the County of Norfolk (Respondent).

Unit: "all jail employees of the respondent in Norfolk County, save and except the chief turnkey and persons above the rank of chief turnkey." (10 employees in the unit).

4886-62-R: Retail Clerks Union, Local 409, Chartered by Retail Clerks International Association (Applicant) v. Johnson & Boon Co., Limited (Respondent).

Unit: "all warehouse employees of the respondent at Fort William, save and except department heads, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (10 employees in the unit).

4890-62-R: United Brotherhood of Carpenters and Joiners of America, Local Union 2480 (Applicant) v. M. Sule Construction Ltd. (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent in the Township of Nottawasaga, in the county of Simcoe, save and except non-working foremen and persons above the rank of non-working foreman." (3 employees in the unit).

The Board endorsed the Record as follows:

"The applicant seeks a geographic area consisting of the County of Simcoe. The evidence before the Board establishes that this is the first occasion that the respondent has carried on operations in this county. The project in question is located at Glen Huron in the Township of Nottawasaga. While the Central Ontario District Council of the United Brotherhood of Carpenters and Joiners of America has entered into collective agreements with employers covering the County of Simcoe there is no evidence (or claim) that the applicant has established a pattern of collective bargaining for the County other than as a member of the Central Ontario District Council. Any certifications or collective agreements involving Local 2480 by itself are for the Barrie area. Of more significance, however, is the fact that there is at least one other agreement involving another local (1304) of the same union for an area within the County. The agreement in question is between Local 1304 and Basil Construction Co. and covers the Township of Orillia. The agreement does not terminate until December, 1963. Again there is no clear evidence before the Board as to the extent of the jurisdiction of Local 2480. It is not set out in its charter and there is no evidence before the Board that it extends beyond the Barrie area."

4901-62-R: Pocketbook Workers Union, Local 9 of the International Leather Goods, Plastics & Novelty Workers Union (Applicant) v. North American Handbags Ltd. (Respondent).

Unit: "all employees of the respondent at Cornwall, save and except foremen and foreladies, persons above the rank of foreman and forelady, office staff and persons regularly employed for not more than 24 hours per week."
(45 employees in the unit).

4913-62-R: Local Union 787 Refrigeration Installation and Service Mechanics, and Apprentices of the United Association of Journeyman and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada (Applicant) v. Refrigeration Certified Maintenance Co. Ltd. (Respondent).

Unit: "all employees of the respondent employed at or working out of Metropolitan Toronto, engaged in the servicing of refrigeration and air conditioning equipment, save and except foremen, persons above the rank of foreman and office staff."
(9 employees in the unit).

4920-62-R: Building Service Employees' International Union, Local 204, A.F. of L., C.I.O., C.L.C. (Applicant) v. Gibson Bros. Limited (Respondent).

Unit: "all employees of the respondent at the Canadian Imperial Bank of Commerce Building, 365 Bay Street, Toronto, save and except foremen, persons above the rank of foreman and persons regularly employed for not more than 24 hours per week."

4921-62-R: Boot and Shoe Workers Union, affiliated with the American Federation of Labour and The Congress of Industrial Organizations (Applicant) v. Susan Shoes Limited (Respondent).

Unit: "all employees of the respondent at its plant in Burlington, save and except foremen, foreladies, persons above the ranks of foreman or forelady and office and sales staff." (175 employees in the unit).

4924-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Andeen Construction Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent in the Counties of Elgin, Middlesex, Perth, Huron, Bruce and Oxford, save and except non-working foremen and persons above the rank of non-working foreman." (6 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 295)

4935-62-R: International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC (Applicant) v. Generator & Electric Repair Co. Ltd. (Respondent).

Unit: "all employees of the respondent at its plant in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, and office staff." (39 employees in the unit).

4952-62-R: International Hod Carriers', Building and Common Labourers' Union of America, Local 1250 (A.F.L. - C.I.O.) (C.L.C.) (Applicant) v. Welcon Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent at Perth, save and except non-working foremen and persons above the rank of non-working foreman." (52 employees in the unit).

Certified Subsequent to Pre-Hearing Vote

2501-61-R: United Steelworkers of America (Applicant) v. The International Nickel Company of Canada, Limited (Respondent) v. Sudbury Mine, Mill and Smelter Workers' Union, Local 598 (Intervener) v. Sudbury Mine, Mill & Smelter Workers Local 598, of the International Union of Mine, Mill & Smelter Workers (Intervener) v. International Union of Mine, Mill & Smelter Workers (Intervener) v. Group of Employees.

Unit: "all employees of the respondent in the Sudbury District, save and except office staff, officers and officials of the respondent and individuals employed by the respondent in the following classifications:

MINES SECTION

Mining Underground

Superintendents
Assist. Superintendents
Underground Superintendents
General Foremen
Senior Foremen
Junior Foremen
Surface Foremen
Relieving Surface Foremen
Supply Foremen
Drill Fitter Foremen
Salvage Foremen
Shift Bosses
*Rel. Shift Bosses
Drill Fitter Bosses
Matrons
Supply Bosses

Open Pits

Superintendents
Assist. Superintendents
Sr. Foremen
Jr. Foremen
Blasting Foremen
Asst. Blasting Foremen
Supply Foremen
Shift Bosses
*Rel. Shift Bosses
Drill Fitter Bosses

Mechanical - All Mines

Master Mechanics of Mines
Asst. Master Mechanics of Mines
Mine Master Mechanics
Asst. Mine Master Mechanics
Garage Foremen
Asst. Garage Foremen
Rockhouse Foremen
Mechanical Shift Foremen
Steel Shop Foremen
Carpenter Shop Foremen
Garage Shift Foremen
Machine Shop Foremen
Plate Shop Foremen
Crushing Plant Foremen
Rockhouse Bosses
Steel Shop Bosses

Crushing Plant Bosses
Picker Bosses
Rigger Bosses

REDUCTION SECTION

Mill

Supts.
Asst. Supts.
General Foremen
Flotation Foremen
Shift Bosses
*Rel. Shift Bosses
Screening Plant Bosses
Grinding Bosses
Dewatering Bosses
Flotation Bosses
General Labour Bosses
Bin Bosses
Metallurgists
Statisticians
Matrons

Smelters

Supts. Reverb.
Supts. Convtrs.
Supts. Orford
Supts. Coniston
Asst. Supts.
General Foremen
{ Asst. to Supts.
{ Shift Bosses
{ Smelter Foremen
{ Blast Furnace & Convtr. Slag
{ Bosses (Coniston)
{ Transportation Foremen
*Rel. Shift Bosses
Converter Slag Bosses
Puncher Bosses
Lining St. Bosses
Sinter Pl. Bosses
Flue Dust Bosses
Cottrell Bosses
Bin Bosses
Slag Dump Bosses
Matrons
Watchmen

[*Including individuals in other classifications who automatically act for shift boss in the latter's absence.]

Copper Cliff and Coniston Mechanical

Master Mechanics
Asst. Master Mechanics
General Foremen
Chief Engineers (Power)
{ Shop Foremen
{ Fitter Foremen
{ Mason Foremen
{ Asst. Fitter Foremen
{ Substation Foremen (Coniston)

Transportation

Supts.
Asst. Supts.
Yardmasters
Roadmasters
Transportation Assts.
Train Dispatchers
Truck Dispatchers

Electrical

Supts.
Asst. Supts.
{ Powerhouse Supts.
{ Chief Electricians
{ Asst. to Supts.
{ Asst. Chief Electricians
{ Asst. Powerhouse Supts.

{ Foremen
{ Shop Bosses (including Loco Repair
 Shop and Winding Bosses)
{ Meter Foremen
P. Hse. & Pl. Sw. Bd. Operators
Water Regulators
Patrolmen

COPPER REFINING SECTION

Supts.
Asst. Supts.
Assts. to Supts.
Chief Engineers
Night Supervisors
General Foremen
Shift Foremen
Foremen, Tank House Aisle
Foremen, Acid Plant
Foremen, Selenium Plant
Foremen, Lead Burner
Foremen, Coal Plant
Foremen, Transportation
Foremen, Watch & Patrol

Shift Bosses, Electric Furnace
Shift Bosses, Anode Furnace
Shift Bosses, Tank House
Shift Bosses, Silver Refinery
Shift Bosses, Acid Plant
Shops Foremen
Chief Electricians
Asst. Chief Electricians
Chief Inspectors (Refined Shapes)
Gold Room Operators
Chief Sampler
P. H. Switchboard Operators
Matrons
Watchmen

GENERAL EXCLUSIONS

- All employees of the Geological Dept. excepting Geological helpers. (M. & S. Division)
- All employees of the Metallurgical Dept. excepting samplers, sampler helpers and labourers. (M. & S. Division)
- All employees of the Safety and First Aid Dept. excepting drymen. (M. & S. Division)
- All employees of the Purchasing & Stores Dept. excepting storeroom men & Storemen helpers. (M. & S. Division)
- All employees of the Research Dept. excepting Test Mill Operators and sampler helpers.
- All employees of the Efficiency Dept. (M. & S. Division)
- All employees of the Personnel & Employment Dept. (M. & S. & C. R. Divisions)
- All employees of the Mines Engineering Dept. (M. & S. Division)
- All employees of the Hospital & Clinical Depts.
- All employees of the Accounting Dept. (M. & S. Division)
- All employees of the Civil & Mechanical Engineering Dept. (M. & S. Division)
- All Real Estate Agents, Ventilation Engineers, Plant Clerks & Stenos, Agriculturists, Fire Prevention Men, Process Engineers, Watchmen (Bruce Mines), Janitors (Community Halls). (M. & S. Division)

All employees of the Metallurgical, Chemical & Research Dept. Except drillers & drill room men. (C. R. Division)

All employees of the Accounting Dept. including plant clerks and janitors. (C. R. Division)

All employees of the Safety & First Aid Dept. (C. R. Division)

All employees of the Purchasing & Stores Dept. except stores helpers. (C. R. Division)

Employees in any new classifications having supervisory or confidential status at least equal in degree to that of any employees herein excluded."

Number of names on revised eligibility list			14333
Number of ballots cast		14171	
Number of spoiled ballots	36		
Number of ballots segregated (Not counted)	2		
Number of ballots marked in favour of applicant	7182		
Number of ballots marked in favour of intervener Sudbury Mine, Mill & Smelter Workers' Union Local 598	6951		

As stated in page 212 of the October 1962 Monthly Report of the Ontario Labour Relations Board, certification was granted to the applicant on October 15, 1962.

In the course of the proceedings before the Board in this case a number of decisions were issued. Some of these do not set out policy and these are reported below. Decisions of the Board issued on January 17th, 1962; February 1st, 1962; June 4th, 1962; September 14th, 1962 and November 15th, 1962 contain statements of policy in the report under Indexed Endorsements. In so far as the decision of October 15th, 1962 is concerned, written reasons were given and these have been already distributed and are not included here.

On March 27, 1962 the Board endorsed the Record in part as follows:

"The motion of counsel for the applicant - "That the Board exercise the power conferred upon it by Section 79(1) of The Labour Relations Act and reconsider and vary its decision pronounced on the 1st of February, 1962, by deleting paragraph number 7 thereof and substituting an order that the ballot boxes be opened and the ballots counted forthwith" - is denied."

On April 12, 1962 the Board further endorsed the Record as follows:

"The motion of counsel for the applicant, made orally at the hearing in this matter held by the Board on March 23, 1962, and argued at a hearing held on April 3, 1962, that the allegations contained in the paragraph numbered 3 in a letter to the Board dated March 8, 1962 from Messrs. Sher, Loftus & Golden, solicitors for the International Union of Mine, Mill & Smelter Workers, be not entertained by the Board, is denied. The Board is of opinion that these allegations in the main raise an issue as to the weight to be given to the evidence of membership filed by the applicant, and, to the extent to which they do raise such an issue, the International Union of Mine, Mill & Smelter Workers should be permitted to adduce evidence in support of such allegations.

The motion of counsel for the applicant, set out in the paragraph numbered 2 of a letter addressed to the Board by Messrs. Jolliffe, Lewis & Osler, dated March 13, 1962, that the Board limit its investigations on the allegations of non-payment and forgery made by certain interveners solely to the names on certain lists referred to in the motion, is denied."

(SEE INDEXED ENDORSEMENT PAGE 299)

4556-62-R: International Union, United Automobile, Aerospace, Agricultural Implement Workers of America (UAW) (Applicant) v. Fruehauf Trailer Company of Canada Limited (Respondent).

Unit: "all employees of the respondent at its factory service branch in the Township of Westminster, save and except foremen, persons above the rank of foreman, office staff, sales staff and parts room clerks." (9 employees in the unit).

Number on revised	
eligibility list	10
Number of ballots cast	10
Number of ballots marked in	
favour of applicant	10
Number of ballots marked as	
opposed to applicant	0

Certified Subsequent to Post-Hearing Vote

4505-62-R: The Canadian Union of Operating Engineers (Applicant) v. Oakville-Trafalgar Memorial Hospital (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener).

Unit: "all stationary engineers employed in the boiler room of the respondent at Oakville, save and except the chief engineer."

Number of names on revised eligibility list		4
Number of ballots cast	4	
Number of ballots marked in favour of applicant	3	
Number of ballots marked in favour of intervener	1	

Applications for Certification Dismissed No Vote Conducted

3536-62-R: International Brotherhood of Electrical Workers AFL-CIO-CLC (Applicant) v. Allanson Manufacturing Corporation Limited (Respondent). (247 employees).

The Board endorsed the Record as follows:

"After carefully considering all the evidence before us we are not satisfied that the employees in question were dismissed contrary to the Labour Relations Act. The argument that these persons remain "employees" pursuant to section 1 (2) of The Labour Relations Act and must be considered as being in the bargaining unit at the times material to this application cannot, therefore, be sustained.

We find that less than forty-five per cent of the employees of the respondent in any bargaining unit which we would find appropriate for collective bargaining were members of the applicant at the material times fixed in accordance with the Labour Relations Act and the Board's Rules of Procedure.

The application is, therefore, dismissed."

Board Member E. Boyer, dissented and said:

"I dissent. I would have found that the employees in question were dismissed contrary to the Labour Relations Act and that, therefore, pursuant to section 1 (2) of the Act, they are employees in the bargaining unit at the times material to this application. On this basis I would have found that not less than forty-five per cent of the employees of the respondent in the bargaining unit were members of the applicant at the material times and I would, therefore, have directed a representation vote."

3695-62-R: The Joseph Brant Memorial Hospital Staff Association (Applicant) v. Burlington-Nelson Hospital (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener) v. The National Union of Public Employees (Intervener). (164 employees).

(SEE INDEXED ENDORSEMENT PAGE 285)

4150-62-R: The Bauer's Limited Employees Association (Applicant) v. Bauers Limited (Respondent). (109 employees).

The Board endorsed the Record in part as follows:

"The greater portion of the evidence of membership submitted by the applicant consists of membership application cards together with receipts indicating a payment of at least \$1.00 which are dated more than a year before the applicant changed its character from that of a loose knit employees club to that of a trade union within the meaning of the Labour Relation's Act. The applicant also filed statements signed by certain employees of the respondent whom the applicant claimed as members wherein the employees stated that they were members of the applicant and wished the applicant to represent them for collective bargaining purposes. Although these statements were signed subsequent to the applicant becoming a trade union, there is no evidence before the Board that the money payment was made to the applicant in its new character as a trade union by the majority of the persons whom the applicant claims as members.

In view of these circumstances, the Board is satisfied on the basis of all the evidence before it that less than forty-five per cent of the employees of the respondent in the bargaining unit the Board might deem appropriate at the time the application was made were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure."

4411-62-R: International Association of Bridge, Structural & Ornamental Ironworkers Local 721 (Applicant) v. R M P Industries Ltd. (Respondent). (175 employees).

The Board endorsed the Record as follows:

"In a previous case involving Local 757 of the International Association of Bridge, Structural & Ornamental Ironworkers and Prime Windows of Canada Limited (which company subsequently became RMP Indust-

ries Ltd. the respondent in the present case), this Board held that the appropriate bargaining unit was an all employee unit, that Local 757 was restricted from admitting persons into membership who were engaged in field erection and installation work and that such persons were included in the bargaining unit which the Board found to be appropriate. Therefore the Board, on the basis of its previous decisions, found that it was precluded from certifying Local 757 and the application was dismissed.

The question for decision in this application is whether the applicant, Local 721 of the International Association of Bridge, Structural & Ornamental Ironworkers is, under the terms of its Constitution, entitled to take into membership employees engaged in fabrication work done in shops, there being in the same locality as Local 721, another local, namely Local 757, with jurisdiction to take in as members persons engaged in fabrication work done in shops.

In our view, under the terms of the International Constitution and particularly article XX, section 44, Local 721, which (as is well known to the Board from previous decisions before it including Art Wire and Iron Company Limited Case, C.C.H. Canadian Labour Law Reporter, Transfer Binder 1954-59, ¶17,080,) is usually referred to as an outside erection local, is precluded from taking into membership persons engaged in fabrication work.

It is clear that there is another local union in the locality where the employees of the respondent are located. That local union is Local 757, a shopman's local. Under article XXVII, section 2, the jurisdiction of shopmen is confined to fabrication work done in shops. By article XX, section 44 "the members of"... Local 721..."must respect the recognized work of"... Local 757..."and confine their members to their own particular branches of work". On the face of it, therefore, it is difficult to see how Local 721, the applicant in this case, can accept as members persons who are engaged in fabrication work done in shops.

It is argued however that fabrication work done in shops is not a "branch of the trade" or a "branch of work" within the meaning of section 44 of article XX, that these words must have reference to recognized work and, to ascertain what is recognized work, reference must be had to article IV of the Constitution which does not distinguish, it is said, between inside

and outside work. An examination of article IV makes it quite clear that "fabrication" is a type of work claimed by the International for its members and so too is "erection and construction". It is also clear that locals exist whose jurisdiction comprises fabrication work done in a shop. It is therefore difficult for us to see how it can be said that this is not a "branch of the trade" or "particular branch of work" of another local union within the meaning of article XX, section 44.

While we agree that the Art Wire and Iron Company Limited Case cannot be taken as establishing the jurisdiction of Local 721 under the terms of the Constitution, the fact of the matter is there is no evidence before the Board as to the extent of its jurisdiction. Its Charter was not filed with the Board in this case. Again, as mentioned above, in a number of cases before this Board, including the Art Wire and Iron Company Limited Case, Local 721 has applied for and been granted certification covering persons employed in erection work. The Board was not referred to any case in which it had granted a certificate to Local 721 which included shopmen and a search of cases involving Local 721 has revealed none. Finally, when asked if it intended adducing evidence with respect to the practice of admitting shopmen to membership, the applicant, through its counsel, stated that it was relying on the Constitution and not practice.

In these circumstances and having regard to the provisions of the Constitution referred to above, we must find that the applicant is precluded from taking into membership the shopmen who are employees of the respondent company. Since it is clear that such persons would be included in any bargaining unit which, having regard to the decision of the Board in the Prime Windows of Canada Limited Case, involving Local 757, the Board must find to be appropriate in this case, the application must therefore be dismissed. (See Gaymer Oultram Case, C.C.H. Canadian Labour Law Reporter, Transfer Binder 1949-54 ¶17,073, and the Ottawa Citizen, a division of the Southam Company Limited Case, C.C.H. Canadian Labour Law Reporter, Transfer Binder 1949-54, ¶17,076.)

So that there may be no misunderstanding on this point, we wish to make it clear that this decision deals only with an application by a local union of the International Association of Bridge, Structural & Ornamental Ironworkers. We express no opinion as to what the result might have been had the application been made by the International Union."

4450-62-R: Sudbury District General Workers Union, Local 902, International Union of Mine, Mill & Smelter Workers (Applicant) v. I. G. A. Foodliner, Sudbury (Respondent) v. Sudbury General Workers Union, Local #101, Canadian Labour Congress (Intervener).

Unit: "all employees of the respondent at its store located at the corner of Bond St. and Notre Dame Avenue, Sudbury, save and except Store Managers, Assistant Store Managers, persons above the rank of Assistant Managers, Office Staff, persons regularly employed for not more than twenty-four (24) hours per week and students employed during the school vacation period." (99 employees in the unit).

The Board endorsed the Record as follows:

"Although the applicant has requested leave to withdraw its application herein, the Board, following its usual practice in such cases, dismisses the application.

The attention of the parties is drawn to the Mathias Ouellette Case CCH ¶16026, C.L.S. 76-485."

4530-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local #506 (Applicant) v. McLean-Peister Limited (Owen Sound and vicinity in the County of Grey) (Respondent). (14 employees).

(SEE INDEXED ENDORSEMENT PAGE 290)

4542-62-R: International Jewelry Workers' Union, Local 43, Dental Technicians Union, Toronto (Applicant) v. Sweet & Kerbel Laboratories Ltd. (Respondent).

Unit: "all dental technical employees of the respondent at Toronto, save and except foremen and persons above the rank of foreman."

The Board endorsed the Record as follows:

"For the purposes of clarity, the Board declares that the office, clerical, sales and delivery personnel are not included in the bargaining unit.

The documentary evidence of membership filed by the applicant on behalf of employees of the respondent in the bargaining unit does not satisfy the Board's requirements as set out in a statement of policy dated February 16th, 1951. (C.C.H. Canadian Labour Law Reporter, Vol. 2, ¶60,981).

The application is accordingly dismissed."

4550-62-R: Cabot Carbon of Canada, Ltd. Employees' Association (Applicant) v. Cabot Carbon of Canada, Ltd. (Respondent) v. Local 944, International Union of Operating Engineers (Intervener) v. Oil, Chemical and Atomic Workers International Union (Intervener).

Unit: "all employees of the respondent at Sarnia, save and except foremen and supervisors, persons above the rank of foreman or supervisor, office staff, students hired for the school vacation period, stationary engineers and apprentice stationary engineers employed in its boiler and compressor rooms." (63 employees in the unit).

The Board endorsed the Record as follows:

"On the basis of the documentary evidence of membership submitted by the applicant and the evidence adduced at the hearing, we are not satisfied that not less than forty-five per cent of the employees of the respondent in the bargaining unit either signed applications for membership in the applicant and paid initiation fees after the applicant was formed or, in the case of those who signed applications and paid their fees prior to the formation of the applicant, that such persons did some act following the formation of the applicant which could be regarded as consistent with membership in the applicant. (See M. Loeb Limited Case, O.L.R.B. Monthly Reports, May 1962, p. 69).

Having regard to the above conclusion, we are not satisfied that not less than forty-five per cent of the employees of the respondent in the bargaining unit are members of the applicant, and the application must therefore be dismissed."

4795-62-R: Walker's Bakeries Ltd, Salesmen Employees Association (Applicant) v. The Walker Bakeries Limited (a division of General Bakeries Limited) (Respondent) v. Milk & Bread Drivers, Dairy Employes, Caterers and Allied Emp. Local Union No. 647 (Intervener). (58 employees).

The Board endorsed the Record as follows:

"On December 15th, 1961 the Board granted conciliation services to the intervener with respect to employees of the respondent affected by this application.

Having regard to section 46 (2) (b) (i) of The Labour Relations Act, this application is untimely and is therefore dismissed."

4903-62-R: United Brotherhood of Carpenters & Joiners of America (Applicant) v. The Frid Construction Company Limited. (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent at or working out of Fort Erie, save and except non-working foremen and persons above the rank of non-working foreman." (15 employees in the unit).

The Board endorsed the Record as follows:

"The applicant applies for certification as bargaining agent for all carpenters and carpenters' apprentices in the employ of the respondent in Lincoln, Welland and Haldimand Counties, save and except non-working foremen and persons above that rank. The employees in question are working on a sewage disposal plant extension at Fort Erie.

On February 9, 1962 the applicant was certified as bargaining agent for all carpenters and carpenters' apprentices in the employ of the respondent at or working out of Fort Erie, save and except non-working foremen and persons above the rank of non-working foreman. The applicant has informed the Board that no collective agreement was entered into with the respondent following this decision. The respondent in its reply in the present application refers to the previous certification, but does not allege in paragraph 12 of the reply that there is a collective agreement in existence. In fact paragraph 12 is struck out.

Having regard to these considerations the Board finds that the applicant is the certified bargaining agent for the employees who are the subject of this application.

Accordingly, these proceedings are hereby terminated."

16597-58: Local 1450 United Brotherhood of Carpenters & Joiners of America (Applicant) v. M. J. Finn General Contractor (Respondent).

Unit: "all carpenters and carpenters' apprentices of the respondent employed at or working out of Peterborough save and except non-working foremen and persons above the rank of non-working foreman." (11 employees in the unit).

Certification Dismissed subsequent to Pre-Hearing Vote

4594-62-R: Milk and Bread Drivers, Dairy Employees, Caterers and Allied Employees Local Union No. 647, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Silverwood Dairies Limited, Chatham, Ontario (Respondent) v. Silverwood Employees' Association (Chatham Branch) (Intervener).

Voting Constituency: "all employees of the respondent employed at or working out of its branch at Chatham, save and except:

- (a) Executive officers, office staff, plant superintendent, chief engineer, sales supervisors, route foremen, foremen and persons above those ranks, and
- (b) persons hired for part time working twenty-four hours or less per week, and
- (c) persons hired for vacation period, relief or seasonal work, provided however that any such person employed continuously for a period of more than six months shall be included in the voting constituency."
(39 employees in the constituency).

Number of names on revised eligibility list		32
Number of ballots cast	32	
Number of ballots marked in favour of applicant	10	
Number of ballots marked in favour of intervener	22	

4620-62-R: The Canadian Union of Operating Engineers (Applicant) v. Alexandra Hospital (Respondent) v. International Union of Operating Engineers, Local 944 (Intervener).

Voting Constituency: "all stationary engineers employed in the power house of Alexandra Hospital at Ingersoll, save and except the chief engineer."

Number of names on revised eligibility list		5
Number of ballots cast	4	
Number of ballots marked in favour of applicant	1	
Number of ballots marked in favour of intervener	3	

Certification Dismissed subsequent to Post-Hearing Vote

3845-62-R: Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. Frederick's Department Stores Limited (Respondent).

Unit: "all employees of the respondent in its department stores in the Township of Westminster, save and except department heads, buyer-department heads, supervisors, persons above the ranks of department head, buyer-department head and supervisor, office staff, persons regularly employed for not more than 24 hours per week, and students hired for the school vacation period."
(56 employees in the unit).

Number of names on revised eligibility list		31
Number of ballots cast	31	
Number of ballots segregated (not counted)	1	
Number of ballots marked in favour of applicant	3	
Number of ballots marked as opposed to applicant	27	

3980-62-R: International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC (Applicant) v. R.C.A. Victor Company Ltd. (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except supervisors, persons above the rank of supervisor, office and sales staff and students hired for the school vacation period." (42 employees in the unit).

Number of names on revised eligibility list		41
Number of ballots cast	41	
Number of ballots marked in favour of applicant	11	
Number of ballots marked as opposed to applicant	30	

3535-62-R: International Chemical Workers Union, A.F.L.-C.I.O. C.L.C. (Applicant) v. J.F. Hartz Company Ltd. (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman, sales staff, store employees and office staff."

Number of names on revised eligibility list		87
Number of ballots cast	87	
Number of ballots spoiled	1	
Number of segregated ballots (not counted)	5	
Number of ballots marked in favour of applicant	38	
Number of ballots marked as opposed to applicant	43	

On October 15th, 1962, the Board endorsed the Record in part as follows:

"Following the taking of the representation vote in this matter on August 23rd, 1962, the applicant, by letter to the Board dated August 23rd, 1962, filed a statement of objections and desire to make representations concerning the vote. The evidence is that the respondent, on August 16th, 1962, caused to be posted copies of a document at seven locations on its premises adjacent to the Board's "NOTICE OF TAKING OF VOTE". They remained posted up to and during the taking of the vote on August 23rd, 1962, and the respondent took no steps to remove them before the commencement of the seventy-two hour period before the day on which the vote was taken. This document was addressed "TO OUR EMPLOYEES" and concluded with the name "V.R. Smith, President, THE J.F. HARTZ COMPANY LIMITED". It referred to a letter by the applicant to the employees of the respondent which listed certain benefits procured by the applicant for employees of another company, and dealt with the claims of the applicant. In the circumstances the Board finds that the respondent violated the Registrar's direction to the parties to refrain and desist from propaganda and electioneering during this period and during the day on which the vote was taken."

4168-62-R: Sudbury General Workers Union, Local 101, C.I.C. (Applicant) v. Nanef Manufacturing Company (Respondent).

Unit: "all employees of the respondent at Sudbury, save and except foremen, persons above the rank of foreman, office and sales staff." (6 employees in the unit)

Number of names on revised eligibility list		6
Number of ballots cast	6	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	6	

4255-62-R: International Hod Carriers Building and Common Labourers Union, Local 1081 (Applicant) v. J. D. Oaks & Son Ltd. (Respondent).

Unit: "all employees of the respondent at Guelph, save and except foremen, persons above the rank of foreman, office and sales staff." (16 employees in the unit).



The Board endorsed the Record in part as follows:

"The Board further finds that Douglas Taylor exercises managerial function within the meaning of section 1 (3) (b) of The Labour Relations Act and is not included in the bargaining unit.

At the hearing the respondent requested the Board to satisfy itself that the said Douglas Taylor took no part in the formation of the union. In so far as the documentary evidence of membership on file with the Board is concerned, Douglas Taylor's name does not appear thereon as a witness or as a collector."

Board Member Edmund Boyer dissented and said:

"I dissent. I find that Douglas Taylor does not exercise managerial functions within the meaning of section 1(3)(b) of The Labour Relations Act and is an employee of the respondent included in the bargaining unit."

Number of names on revised eligibility list		16
Number of ballots cast	16	
Number of ballots marked in favour of applicant	4	
Number of ballots marked as opposed to applicant	12	

4434-62-R: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. IGA Foodliner - Brantford (Respondent).

Unit: "all employees of the respondent in the meat departments of its stores in Brantford, save and except persons employed for not more than 24 hours per week."
(4 employees in the unit).

Number of names on eligibility list		4
Number of ballots cast	4	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	4	

4596-62-R: Hamilton Typographical Union No. 129 (Applicant) v. Division of Home Newspapers Limited (Oakville) (Respondent).

Unit: "all employees of the respondent at Oakville engaged in composing room work, including newspaper and job printing, save and except foremen, persons above the rank of foreman and proof readers." (16 employees in the unit).

Number of names on revised eligibility list		15
Number of ballots cast	15	
Number of ballots segregated (not counted)	1	
Number of ballots marked in favour of applicant	5	
Number of ballots marked as opposed to applicant	9	

4656-62-R: Teamsters' Local Union No. 230, Ready Mix, Building Supply, Hydro and Construction Drivers, Warehousemen and Helpers (Applicant) v. A.J. Follett Haulage Contractor (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (12 employees in the unit)

Number of names on revised eligibilist list		12
Number of ballots cast	12	
Number of ballots marked in favour of applicant	4	
Number of ballots marked as opposed to applicant	8	

BALLOTS NOT COUNTED

1288-61-R: United Steelworkers of America (Applicant) v. Continental Can Co. of Canada Ltd. (Gair Paper Products Div.) (Respondent).

Unit: "all office, clerical and technical employees of the respondent at plant #536 (Dominion Box board Mill) and sales office #598 (Dominion Boxboard Sales Office at Toronto) save and except supervisors, persons above the rank of supervisor, salesmen and industrial engineer, the plant nurse and one secretary to the mill manager." (8 employees in the unit).

Number of names on revised eligibility list		7
Number of ballots cast	7	

APPLICATIONS FOR CERTIFICATION WITHDRAWN DURING NOVEMBER 1962

4744-62-R: General Truck Drivers Union, Local 938, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. William Ninnis Company Limited (Respondent).

4758-62-R: International Hod Carriers Building and Common Labourers Union of America, Local Union # 1089 (Applicant) v. F. A. Stonehouse and Son Ltd. (Respondent). (7 employees).

4762-62-R: Teamsters Chauffeurs Warehousemen and Helpers Local No. 91, affiliated with International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers (Applicant) v. The Austin Co. Ltd. (Respondent). (9 employees).

4764-62-R: Teamsters Chauffeurs Warehousemen and Helpers Local No. 91, affiliated with International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers (Applicant) v. Universal Chauffeurs & Maintenance Services (Respondent) (4 employees).

4766-62-R: Welders, Public Garage Employees, Motor Mechanics and Allied Workers, Local Union No. 847, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Geo. W. Crothers Limited (Respondent) v. Canadian Construction Equipment Workers' Union, No. 174, National Council of Canadian Labour (Intervener). (170 employees).

18250-59: Teamster Local Union No. 230, Ready-Mix, Building Supply, Hydro & Construction Drivers, Warehousemen and Helpers, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Blair Supply Company Limited (Respondent). (WITHDRAWN). (10 employees).

APPLICATIONS FOR TERMINATION DISPOSED OF DURING NOVEMBER 1962

4080-62-R: Bruce McDonald (Applicant) v. United Packinghouse Workers of America, Local 271 (Respondent) (GRANTED). (188 employees).

(Re: Whyte Packing Company Limited,
Stratford, Ontario)

There were two voting constituencies established in the case and the vote results were as follows:

Result of vote - List No. 1

Number of names on revised eligibility list	116
Number of ballots cast by persons whose names appear on voters' list #1	116

Number of ballots marked in favour of the respondent	2
Number of ballots marked as opposed to the respondent	<u>114</u>
	116

Result of vote - List No. 2

Number of names on list #2	71
Number of ballots cast by persons whose names appeared on list #2 - segregated and not counted	61
Number of ballots cast by persons whose names do not appear on list #2 - segre- gated and not counted	1

4489-62-R: Office Employees of The Brown Brothers Limited
(Applicant) v. Office Employees International Union, Local
131 A.F.L. C.I.O. (Respondent). (DISMISSED). (52 employees).

(Re: The Brown Brothers Limited,
Toronto, Ontario)

The Board endorsed the Record as follows:

"At the hearing in this matter the repre-
sentative of the applicant was not able to testify,
and did not produce a witness or witnesses who were
able to testify from his or their personal know-
ledge and observation as to the circumstances con-
cerning the origination of the material filed in
support of the application and as to the manner in
which each of the signatures on the material was
obtained, although the applicant had been notified
of the Board's requirements in this respect. The
application is accordingly dismissed."

4517-62-R: Dundas Construction Company Limited (Applicant) v.
A Council of Trade Unions acting as the representatives and
agent of the International Union of Operating Engineers, Local
793, Teamsters' Local Union No. 230, affiliated with the Inter-
national Brotherhood of Teamsters, Chauffeurs, Warehousemen &
Helpers of America, and International Hod Carriers', Building
and Common Labourers' Union of America, Local 183 (Respondent).
(WITHDRAWN). (25 employees).

(Re: Dundas Construction Company Limited,
Etobicoke, Ontario)

4516-62-R: Trent Valley Bakeries (Applicant) v. Milk and Bread Drivers, Dairy Employees, Caterers and Allied Employees Local Union 647, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Respondent). (DISMISSED). (22 employees).

(Re: Trent Valley Bakeries,
Kingston, Ontario)

Number of names on revised eligibility list	22
Number of ballots cast	22
Number of ballots marked in favour of respondent	8
Number of ballots marked as opposed to respondent	14

4612-62-R: Local 14170 United Mine Workers of America (Applicant) v. United Mine Workers of America District 50 Region 77 (Respondent). (DISMISSED). (1 employee).

(Re: Canadian Pittsburgh Industries Ltd.,
Kingston, Ontario)

4613-62-R: Local 14170 United Mine Workers of America (Applicant) v. United Mine Workers of America District 50 Region 77 (Respondent). (DISMISSED). (6 employees).

(Re: Pilkington Glass Limited,
Kingston, Ontario)

4804-62-R: The Employees of Transit Mixed Concrete Ltd. (Applicant) v. Canadian Brotherhood of Railway, Transport and General Workers (Respondent). (GRANTED). (28 employees).

(Re: Transit Mixed Concrete and Builders Supply Limited,
St. Catharines, Ontario)

4911-62-R: Ruth Woboditsch (Applicant) v. Dental Technicians Union Local 43 Toronto I.J.W.U. (Respondent). (DISMISSED). (16 employees).

(Re: Nobilium Processors Limited,
Toronto, Ontario)

The Board endorsed the Record as follows:

"For reasons given orally at the hearing, the Board finds that conciliation services were granted to the respondent on the 1st day of February, 1962 with respect to the employees of the intervener covered by a collective agreement between the respondent and the Dental Laboratory Owners Association of which the intervener was a member. The application is therefore untimely and is accordingly dismissed."

APPLICATIONS FOR DECLARATION CONCERNING STATUS OF SUCCESSOR

TRADE UNION DISPOSED OF DURING NOVEMBER 1962

3514-62-R: Local Union No. 138, International Brotherhood of Electrical Workers, AFL-CIO-CLC (Applicant) v. The Hydro-Electric Commission of the City of Hamilton (Respondent) (GRANTED).

The Board endorsed the Record as follows:

"For reasons given in writing the Board finds that the applicant is by reason of a transfer of jurisdiction the successor to the International Brotherhood of Electrical Workers, AFL-CIO-CLC, which was the bargaining agent for a unit of employees of the respondent defined in a collective agreement between the Hydro-Electric Commission of the City of Hamilton and the International Brotherhood of Electrical Workers, AFL-CIO-CLC, effective from the 30th day of June, 1961 to the 1st day of July, 1962 subject to written notice for renewal.

An affirmative declaration under section 47 of The Labour Relations Act to the effect that the applicant is the successor to the International Brotherhood of Electrical Workers, AFL-CIO-CLC which was a party to the agreement referred to with the respondent, will issue."

Board Member Colin C. Young dissented and said:

"For reasons given in writing, I dissent and I would not have made an affirmative declaration under section 47 of The Labour Relations Act in this case."

4808-62-R: United Steelworkers of America (Applicant) v. Collingwood Shipyards Division of Canadian Shipbuilding & Engineering Limited (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board finds that the applicant is, by reason of transfer of jurisdiction, the successor to The National Union of Marine and Shipbuilding Workers of Canada, Local 20, C.L.C., which was the bargaining agent for a unit of employees of the respondent defined in a collective agreement between The National Union of Marine and Shipbuilding Workers of Canada, Local 20, C.L.C. and Collingwood Shipyards, Division of Canadian Shipbuilding and Engineering Limited entered into and signed April 30th, 1962, and effective from April 1st, 1962, to April 1st, 1964, with year to year renewal subject to notice."

APPLICATION UNDER SECTION 79 OF THE ACT DISPOSED OF BY

THE BOARD

4204-62-M: International Union of Doll & Toy Workers of United States & Canada (Applicant) v. Ganz Bros. Toys Ltd. (Respondent). (Re: Dina Manu, Xresula Pshogau, Antonio Macchione and Maria Cordovado).

Board made ruling as to whether certain persons in the employ of the respondent did or did not exercise managerial functions.

4670-62-M: Gerald F. Hawkins (Applicant) v. Local #27 United Brotherhood of Carpenters & Joiners of America (Respondent). (TERMINATED).

The Board endorsed the Record as follows:

"Upon notice having been given by the Registrar to the respondent union that the applicant had filed a complaint under section 63 of The Labour Relations Act, the respondent union, while denying the allegations of the applicant, furnished to the Board for transmittal to the applicant a copy of its financial statement "as at June 30, 1961", and further informed the Board that the Financial statement for the next fiscal year would be read to a meeting of the union to be held on November 13, 1962, due notice of which would be sent to the applicant. The financial statement referred to and a copy of the respondent union's letter to the Board concerning the meeting of November 13th were forwarded by the Registrar to the applicant on November 6, 1962, and the Registrar notified the applicant at that time that, "in view of the contents of the aforementioned documents", the Board would terminate the proceedings unless the Registrar heard from the applicant on or before November 16th. There has been no further communication to the Registrar from the applicant since November 6, 1962. This proceeding is accordingly terminated."

APPLICATION FOR DECLARATION THAT LOCKOUT UNLAWFUL DISPOSED
OF DURING NOVEMBER 1962

4899-62-U: Toronto Motion Picture Projectionist Union, Local 173 (Applicant) v. Mr. William Kolas, Academy Theatre, 1286 Bloor Street West, Toronto, Ontario (Respondent) (DISMISSED).

The Board endorsed the Record as follows:

"This is an application for a declaration that the respondent called or authorized an unlawful lock-out.

Having regard to all the evidence before it, the Board is unable to find any substance to the allegations of the applicant union that an unlawful lock-out was called or authorized by the respondent contrary to the provisions of The Labour Relations Act.

The application is therefore dismissed."

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF DURING
NOVEMBER 1962

4463-62-U: Local 2693, Lumber and Sawmill Workers Union of the United Brotherhood of Carpenters and Joiners of America (Applicant) v. George Feniuk (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board consents to the institution of a prosecution against George Feniuk in this matter for the following offences alleged to have been committed:

that the said George Feniuk did contravene Section 56 of The Labour Relations Act in that he did call or authorize an unlawful lock-out of certain of his employees on the 30th day of August, 1962, and thereafter.

The appropriate documents will issue."

4470-62-U: Local 2693, Lumber and Sawmill Workers Union of the United Brotherhood of Carpenters and Joiners of America (Applicant) v. George Feniuk (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board consents to the institution of a prosecution against George Feniuk in this matter for the following offences alleged to have been committed:

that the said George Feniuk did on or about the 30th day of August, 1962, and following that date contravene section 50 of The Labour Relations Act in that he did refuse to employ or refuse to continue to employ or discriminate against Maurice F. Cook in regard to his employment or the terms thereof, because he was a member of a trade union, or to compel him and others to refrain from becoming or continuing to be members of a trade union, or because he was exercising other rights under the Act, or in order to compel him and others to cease to exercise such rights.

The appropriate documents will issue."

4471-62-U: Lumber and Sawmill Workers Union, Local 2693,
of the United Brotherhood of Carpenters and Joiners of America
(Applicant) v. George Feniuk (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board consents to the institution of a prosecution against George Feniuk in this matter for the following offences alleged to have been committed:

that the said George Feniuk did on or about the 30th day of August, 1962, and following that date contravene section 50 of The Labour Relations Act in that he did refuse to employ or refuse to continue to employ or discriminate against Dave Beardy, Wilfred Monias, Eddy Linkalter, Lawrence Young, Joe Young, Alex Beardy, David Young and Ken Monias in regard to their employment or the terms thereof, because they were members of a trade union, or to compel them and others to refrain from becoming or continuing to be members of a trade union, or because they were exercising other rights under the Act and in order to compel them and others to cease to exercise such rights.

The appropriate documents will issue."

4508-62-U: Lumber and Sawmill Workers Unions Local 2537
(Applicant) v. Chapleau Lumber Company Ltd. (Respondent)
(GRANTED).

The Board endorsed the Record as follows:

"The Board grants leave to the applicant to withdraw this application for consent to prosecute with respect to Section 54 (2) of The Labour Relations Act.

The Board consents to the institution of a prosecution against the respondent for the following offences alleged to have been committed:

that the respondent did contravene section 48 and subsection (c) of section 50 of The Labour Relations Act.

The appropriate documents will issue."

4690-62-U: Textile Workers Union of America (Applicant) v. Bay Mills Limited (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board consents to the institution of a prosecution against Bay Mills Limited, the respondent in this matter, for the following offence alleged to have been committed:

that the said Bay Mills Limited did on or about July 16th, 1962 interfere with the administration of a trade union, namely, Textile Workers Union of America, contrary to section 48 of The Labour Relations Act.

The appropriate documents will issue."

4691-62-U: Textile Workers Union of America (Applicant) v. Frank A. Hoffman (Respondent). (GRANTED).

The Board endorsed the Record as follows:

"The Board consents to the institution of a prosecution against Frank A. Hoffman the respondent in this matter for the following offence alleged to have been committed:

that the said Frank A. Hoffman did on or about July 16th, 1962 interfere with the administration of a trade union, namely Textile Workers Union of America, contrary to section 48 of The Labour Relations Act.

The appropriate documents will issue."

4900-62-U: Toronto Motion Projectionists Union, Local 173 (Applicant) v. Mr. William Kolas, Academy Theatre (Toronto) (Respondent). (DISMISSED).

4830-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. G. Zanette Construction Co (Respondent) (WITHDRAWN).

4831-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Hopewell Bricklayers (Respondent) (WITHDRAWN).

4832-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. M. Gurizzan (Respondent) (WITHDRAWN).

4833-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Ottavia Frasca (Respondent) (WITHDRAWN).

4834-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Metropolitan Bricklayers (Respondent) (WITHDRAWN).

4835-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Horn Brothers (Respondent) (WITHDRAWN).

4836-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Giovanni Giambattista (Respondent) (WITHDRAWN).

4837-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Glenholme Bricklayers (Respondent) (WITHDRAWN).

4838-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Canada Masonry (Respondent) (WITHDRAWN).

4839-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Fairbank Bricklayers (Respondent) (WITHDRAWN).

4840-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Fiorini & Di Paolo (Respondent) (WITHDRAWN).

4841-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. G. B. S. Construction Co. (Respondent) (WITHDRAWN).

4842-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Talu Construction (Respondent) (WITHDRAWN).

4843-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. G.M.N. Co. (Respondent) (WITHDRAWN).

4844-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. D.B.M. Masonry (Respondent) (WITHDRAWN).

4845-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. C. & Q. Bricklayers (Respondent) (WITHDRAWN).

4846-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Maiteze G. & P. (Respondent) (WITHDRAWN).

4847-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Di Peco Bros. (Respondent) (WITHDRAWN).

4848-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Coral Construction (Respondent) (WITHDRAWN).

4849-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Cecchini & Sons (Respondent) (WITHDRAWN).

4850-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Racco Cosimo (Respondent) (WITHDRAWN).

4851-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. C.S.M. Construction (Respondent) (WITHDRAWN).

4852-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. E. Bomben (Respondent) (WITHDRAWN).

4853-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Louis Bellomo (Respondent) (WITHDRAWN).

4854-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Benedet & Son Ltd. (Respondent) (WITHDRAWN).

4855-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Beaver Bricklayers (Respondent) (WITHDRAWN).

4856-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. S. Biancolin (Respondent) (WITHDRAWN).

4857-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Vic Canada (Respondent) (WITHDRAWN).

4858-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Turin Brothers (Respondent) (WITHDRAWN).

4859-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Antonio Sperduti Masonry (Respondent) (WITHDRAWN).

4860-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. S. & Z. Construction (Respondent) (WITHDRAWN).

4861-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Vellucci, Gino (Respondent) (WITHDRAWN).

4862-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. La Bun Construction (Respondent) (WITHDRAWN).

4863-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. B. Giulianelli (Respondent) (WITHDRAWN).

4864-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Ideal Bricklayers (Respondent) (WITHDRAWN).

4865-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Adriatic Masonry (Respondent) (WITHDRAWN).

4866-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Milton Masonry (Respondent) (WITHDRAWN).

4867-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Newton Bricklayers (Respondent) (WITHDRAWN).

4868-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Luciani Bros. (Respondent) (WITHDRAWN).

4869-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. L.M. Bricklayers (Respondent) (WITHDRAWN).

4870-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Olinger Bricklayers Co. (Respondent) (WITHDRAWN).

4871-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Marcello Masonry (Respondent) (WITHDRAWN).

- 4872-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. A. Mancini (Respondent) (WITHDRAWN).
- 4873-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Mattachione, Domenico (Respondent) (WITHDRAWN).
- 4874-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Portland Bricklayers Co. (Respondent) (WITHDRAWN).
- 4875-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Passera & Pellizzoni Construction (Respondent) (WITHDRAWN).
- 4876-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Lunardon Construction (Respondent) (WITHDRAWN).
- 4877-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. L. & P. Bricklayers (Respondent). (WITHDRAWN).
- 4878-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Petrolo & DiLeo (Respondent) (WITHDRAWN).
- 4879-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Quality Construction Co. (Respondent) (WITHDRAWN).
- 4880-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. R. & P. Bricklayers (Respondent) (WITHDRAWN).
- 4881-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. A. Sartor and Son (Respondent) (WITHDRAWN).
- 4882-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Selta Ltd. (Respondent) (WITHDRAWN).
- 4883-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. S. & N. Masonry (Respondent) (WITHDRAWN).
- 4884-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. Domenico Stante (Respondent) (WITHDRAWN).
- 4885-62-U: Bricklayers, Masons and Plasterers International Union of America, Local 40, Ontario (Applicant) v. J. Beltrame (Respondent) (WITHDRAWN).

20,547-60: Textile Workers Union of America, CLC, AFL-CIO
(Applicant) v. Circle Bar Knitting Co. Ltd. (Respondent).
(DISMISSED).

The Board endorsed the Record as follows:

"In all the circumstances of this case,
we feel that no useful purpose would be served
by our consenting to the institution of a prose-
cution of the respondent. The application is
accordingly dismissed."

APPLICATIONS UNDER SECTION 65 DISPOSED OF DURING NOVEMBER 1962

2119-61-U: District 50, United Mine Workers of America, Region
75 (Complainant) v. Federal Equipment of Canada Ltd.
(Respondent).

3437-62-U: Warehousemen & Miscellaneous Drivers Union, Local
419. (Complainant) v. Stork Diaper Service Ltd. (Respondent).

3749-62-U: Warehousemen & Miscellaneous Drivers Union, Local
419 (Complainant) v. Stork Diaper Service Ltd. (Respondent).

4192-62-U: Teamsters, Chauffeurs, and Warehousemen & Helpers,
Local Union No. 880 (Complainant) v. Sunset Lanes Limited
(Respondent).

4200-62-U: Food Handlers' Local Union 175 of the Amalgamated
Meat Cutters and Butcher Workmen of North America (Complainant)
v. London Food City (Respondent).

4325-62-U: Sudbury General Workers Union, Local #101,
Canadian Labour Congress (Complainant) v. Rainbow Ready-Mix
Limited (Respondent).

4332-62-U: International Woodworkers of America (Complainant)
v. The Sturgeon Falls Lumber Company Limited (Respondent).

4377-62-U: Building Service Employees' International Union,
Local 204 (Complainant) v. Modern Building Cleaning Service
of Canada Ltd. (Respondent).

4678-62-U: North Bay General Workers Union, Local 1603,
Canadian Labour Congress (Complainant) v. Cochrane Dunlop
Hardware Ltd. Retail Wholesale (North Bay) (Respondent).

4679-62-U: Retail, Wholesale and Department Store Union
(Complainant) v. Windsor Office Supply Limited (Respondent).

4693-62-U: The Sudbury and District General Workers' Union
Local 902 of the International Union of Mine Mill and Smelter
Workers (Complainant) v. Espanola Hotel (Respondent).

4733-62-U: General Truck Drivers' Union, Local 938
(Complainant) v. C.F. Aitchison Transport Limited (Respondent).

4762-62-U: General Truck Drivers Union, Local 938
(Complainant) v. Wm. Ninnis Company Limited (Ninnis Cartage)
(Respondent).

4822-62-U: Food Handler's Local Union 175 of the Amalgamated
Meat Cutters and Butcher Workmen of North America (Complainant)
v. Newt Webster Limited (Respondent).

4897-62-U: International Brotherhood of Teamsters, Chauffeurs,
Warehousemen and Helpers Local 938, General Truck Drivers
(Complainant) v. Kessler Scrap Disposal Services (Respondent).

4909-62-U: United Brotherhood of Carpenters and Joiners of
America (Complainant) v. Dashwood Planing Mills Ltd.
(Respondent).

4930-62-U: United Electrical, Radio and Machine Workers of
America (UE) (Complainant) v. Spaulding Fibre of Canada Limited
(Respondent).

CERTIFICATION INDEXED ENDORSEMENTS

3695-62-R: The Joseph Brant Memorial Hospital Staff
Association (Applicant) v. Burlington-Nelson Hospital (Respon-
dent) v. International Union of Operating Engineers, Local 700
(Intervener) v. The National Union of Public Employees (Inter-
vener) (DISMISSED NOVEMBER, 1962).

The Board endorsed the Record as follows:

"In support of its claim to be a trade union within the meaning of The Labour Relations Act, the applicant relied on a document entitled 'Draft Constitution of The Joseph Brant Memorial Hospital Staff Association' and informed the Board that this constitution was adopted at a meeting during September, 1961. This document provides that the objects of the applicant association are as follows:-

1. The organization of recreational and social activities.
2. To improve interdepartmental relations and communications, and to create a harmonious working atmosphere giving an improved overall hospital efficiency and community relationship.

3. To make recommendations to management regarding ways and means of improving hospital service, working methods and conditions, safety promotion, elimination of waste, etc.

The Board was also informed that the organizational meeting and all subsequent meetings of the applicant union were held on the employer's premises with the permission of the employer and, apparently, without payment for the use of the premises. It is also clear from the evidence that the employer was informed of the purpose of the organizational meeting and permitted notice of this meeting to be given over its public address system. Accordingly, having regard to the provisions of section 10 of The Labour Relations Act, the Board is precluded from certifying the applicant association.

In view of our finding it is unnecessary for the Board to determine whether the applicant association is a trade union within the meaning of section 1 (1) (j) of The Labour Relations Act. However, we believe that we should draw the attention of the applicant to the fact that there may be some doubt as to whether the power 'to make recommendations to management regarding ways and means of improving - - working methods and conditions' satisfies the requirements of section 1 (1) (j) of The Labour Relations Act which defines a trade union as 'an organization of employees formed for purposes that include the regulation of relations between employees and employers'.

The application is dismissed."

4231-62-R: United Brotherhood of Carpenters and Joiners of America, Local Union No. 93 (Applicant) v. W.D. Laflamme Limited (Respondent). (DISMISSED NOVEMBER 1962).

The Board endorsed the Record as follows:

"Schedule A filed by the respondent company contained the names of four persons whom it classified as carpenters and five persons whom it classified as "Carpenter & Labor". Schedule D filed by the company contained the names of two persons on layoff, classified as carpenters. The applicant union challenged the inclusion on the list of seven persons: two (classified by the company as Carpenter & Labor) on the ground that they exercised managerial functions, three on the ground that they were labourers rather than carpenters, and two persons on layoff on the ground that they were not

in the employ of the respondent on the date of the making of the application. In other words the applicant claimed that there were four carpenters in the employ of the respondent in the bargaining unit on the date of the making of the application.

The respondent company is a general contractor engaged primarily in the erection of bridges and similar structures. Persons possessing carpentry skills are employed by the respondent chiefly on form work, but there is not sufficient form work or other carpentry work to keep a full crew of carpenters employed on a full-time basis. To meet the needs of its business, the respondent company engaged a crew of qualified carpenters as carpenters on the understanding (i) that any of them who wished to do so could work solely as carpenters and be laid off when there was no carpentry work available, and (ii) that any of them who wished to do so could work full time for the respondent, doing carpentry work and being paid at the carpentry rate when there was carpenters' work available and doing labouring work at labourers' rates when no carpentry work was available. The persons classified by the respondent company as Carpenter & Labor accepted the second alternative; the others accepted the first alternative. On the date of the making of the application, all the employees classified as Carpenter & Labor were engaged for at least one third of their time on carpentry work. Had they desired to do so, they could have left work on the completion of the carpentry operations and returned when additional carpentry work was available. The company's employment records show that, over a period of some three months from the end of May to the middle of August, the overall ratio of work distribution for these employees was relatively the same as on the date of the making of the application. Having regard to these considerations, we find that Hormidis Lampron, Noel Constantin, and Mathias Diotte, classified by the respondent as Carpenter & Labor, are included in the bargaining unit.

Having regard to the foregoing conclusion we find that less than forty-five per cent of the employees of the respondent in the bargaining unit were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure.

In view of the foregoing conclusions, it is unnecessary for the Board to make any finding on the status of the other persons whose inclusion on the list was challenged by the applicant.

The application is dismissed.

On the constitutional issue raised by counsel for the respondent at the hearing, the attention of the parties is directed to the Board's decision in the Inter-Provincial Paving Company Case (Board file 4561-62-R)."

4299-62-R: Retail, Wholesale and Department Store Union
(Applicant) v. Windsor Office Supply Company (Respondent).
(GRANTED NOVEMBER, 1962).

The Board endorsed the Record as follows:

"The respondent company carries on the business of retailing and wholesaling office supplies, equipment, and furniture in the City of Windsor. Its business operations are carried on at two separate Locations, one, the main store at 361 Pelissier Street, and the other, known as the systems division at 737 Walker Road. We are told that the "systems division" is restricted to the mail order sale and distribution of bookkeeping systems for automotive dealers. Its staff consists of an office girl and two shippers and it is under a manager responsible to the company president. Apparently, the respondent purchased the operations and assets of the "systems division" from another company which has ceased to do business. We were also told that there has been no interchange of personnel between the two locations. Apart from office and management personnel, the staff at the main store consists of three outside salesmen, one truck driver, who also picks up mail orders from the systems division, three clerks and a shipper. The management of the main store is separate from that of the systems division.

It is argued by the respondent that a single bargaining unit comprising the employees at both of the respondent's locations would not be appropriate for collective bargaining.

We are not persuaded that the operations of the respondent are so distinct in character as to constitute different business operations. In our view, they are no different than say two departments in a department store which specialize in different aspects

of office supplies each having a separate department manager responsible to the same general management.

Having regard to the circumstances in this case including the number of employees in the "systems division" we find that all employees of the respondent in Windsor, save and except manager, those above the rank of manager, office staff and outside salesmen, constitute a unit of employees of the respondent appropriate for collective bargaining."

Board Member H.F. Irwin dissented and said:

"I dissent. In my opinion, there are two appropriate bargaining units.

The respondent company operates two separate and distinct establishments in the City of Windsor. One is a retail office furniture and equipment store situated at 361 Pelissier Street. The other is the Systems Division situated a distance of about one mile from the store.

The Systems Division is strictly a mail order business selling accounting systems to automotive dealers. This business was purchased from the previous owner and is under the complete supervision of the Systems Division Manager who is responsible directly to the president of the company. There are two employees (shippers) in what would form an appropriate bargaining unit at the Systems Division. Other than having the same owner, there is no community of interests whatever between the employees of the two establishments and the five employees in the retail store can out vote the two employees in the Systems Division and thereby dominate the policy to be followed by the union in the collective bargaining process. The respondent, on the other hand, because of the distinct character and independent operation of the two businesses should be permitted to bargain with the employees of each operation separately.

For these reasons, I would have held that the retail store and the Systems Division each comprise a separate and appropriate bargaining unit. I concur in the certification of the applicant in respect of the employees in the bargaining unit determined by the Board at the retail store and I would have directed that a representation vote be taken at the Systems Division in a voting constituency consisting of all the employees of the respondent at its Systems Division at Windsor, save and except manager, persons above the rank of manager and office staff."

4530-62-R: International Hod Carriers' Building and Common Labourers' Union of America, Local #506 (Applicant) v. McLean-Peister Limited (Owen Sound and vicinity in the County of Grey) (Respondent). (DISMISSED NOVEMBER 1962).

The Board endorsed the Record as follows:

"Application for certification.

The respondent alleges that its primary business is horticulture and that the employees for whom the applicant seeks bargaining rights are engaged in horticulture. If this be the case, then, by virtue of section 2 (c) of The Labour Relations Act, the Board lacks jurisdiction to process the application.

The respondent company is carrying on the business of 'landscape gardening and nurserymen'. The company operates a store which sells gardening equipment including tools, shrubs, small trees, flowers and seeds; two nurseries, and a 70 acre turf farm. The major part of the company's business is in the commercial field, its sales breakdown for 1962 being divided as follows:

Commercial, industrial and institutional landscaping	76%
Garden maintenance	7%
Garden centre store at Kitchener	8%
Residential landscaping and gardening and general	9%

Commercial, industrial and institutional landscaping is broken down as follows:

Planting of nursery stock	10%
Installation and cultivation of sod from the company's sod farm or sod fields	34%
Planting and cultivation of grass sod	50%
Stone-work, tiling etc. incidental to landscaping projects	3.8%
Other work	2.2%

In terms of dollar value, the company's commercial, industrial and institutional contracts during the past year have been broken down as follows:

A. Planting - Planting of Nursery		
	Stock	10%
	- Planting of Sod	34%
	- Planting of grass	
	seed	<u>50%</u>
		94%
B. Stonework, paving, tiling, etc.		3.8%
C. Sub-contract work		<u>2.2%</u>
TOTAL		100%

During the past fiscal year the company has completed approximately 300,000 square yards of sodding and 2,500,000 square yards of seeding, the sodding area accounting for about 11% of the total grassing work. Of the 25 sodding projects undertaken during the last year, 23 were supplied by turf grown and developed at the Company's permanent turf farm at Breslaw, Ontario.

The nursery stock used in landscaping comes from the company's nurseries.

It is obvious that a substantial proportion - well over 50% - of the respondent company's business is concerned with seeding or sodding lawns. Most of the sod used in the past year came from the company's own turf farm where the work involved is cultivation, fertilization, seeding, irrigation and mowing. On some contracts the respondent will purchase the sod rights from a suitable site in which case there is usually some preparation of the field before the sod is cut as for example, mowing, spraying for weeds and fertilization.

The sodding of a particular project involves the cutting and transportation of the sod, which, after, being laid, is watered, rolled and sometimes fertilized and mown. There is usually a guarantee period for up to a year in which case the work involved includes watering, rolling, fertilizing, weeding and top seeding if needed.

If the job involves seeding other than sodding then the work involves fine grading, fertilization, seeding, rolling and 'after care' such as is described in the preceding paragraph in connection with sodding.

The job involved in the present application is a sodding contract. The sod was obtained from a field about 3 miles from the site of the project. The work force consisted of labourers some of whom were brought by the respondent from the company's base in Kitchener. The field was mown and then rolled and sprayed. The sod was cut, rolled up and placed on pallets, which were then loaded on trucks and moved to the project.

On the project, after the area had been fine graded and fertilized, the pallets were removed from the truck by a forklift truck. The sods were removed from the pallets, watered and power rolled. After rooting, the grass will be mown. The company is responsible for the maintenance of the sodded areas for at least a month after the sod is laid including watering, cutting and trimming, rolling and replacing sods showing signs of weed growth, sparse grass growth, washouts and unsatisfactory development. The job is under guarantee for a year.

The following definitions are taken from Webster's New Twentieth Century Dictionary, (Unabridged):

horticulture: the cultivation of a garden,
the art of cultivating gardens,
the cultivation of fruits,
flowers and vegetables.

cultivation: the art or practice of culti-
vating or tilling and preparing
for crops, husbandry, the man-
agement of land for purposes of
agriculture, production by
tillage.

garden: a piece of ground appropriated
to the cultivation of herbs,
plants, fruits, flowers and
vegetables.

grass: in common usage, herbage.

landscape

gardener: one who lays out gardens or
ground.

Other dictionaries contain substantially similar definitions for these words. For example the Concise Oxford Dictionary defines horticulture as 'Art of garden cultivation'.

Combining these definitions of cultivation and garden, horticulture may thus be defined as 'The art or practice of cultivating or tilling and preparing a piece of ground appropriated to the cultivation of herbs (including grass), plants, flowers or vegetables'.

Having regard to the operations of the respondent and to the work performed by the employees on the project involved in this application, all as outlined above, we are of the opinion that the primary business of the respondent falls within this definition, as does the employment of the employees in question. We are unable to agree that the fact that the major portion of the respondent's operation is now in commercial, industrial and institutional landscaping as opposed to residential work or nursery work can alter the fact that the respondent is engaged in cultivation or tilling and preparing a piece of ground appropriated to the cultivation of herbs (which includes grass), flowers and plants. Nor can we accept the argument that because the work (or part of it) may fall within the definition of 'construction industry' as defined in section 1 (1) (da) of The Labour Relations Act, this takes it out of horticulture. It appears to us that some work on construction sites may very well be horticultural by nature. But what is important is what is being done, not where it is done.

Having reached this conclusion it is not without interest to note that the Select Committee on Labour Relations in its report dated July 10, 1958, recommended under the heading 'Horticulture' that The Labour Relations Act should be amended 'to permit those persons who are now employed by Nursery Companies, by Reforestation programmes, and Landscaping, to come under the provisions of this Act'. While the Act was subsequently amended, the amendment did not go nearly so far as the recommendation. In the words of the Commentary on The Labour Relations Amendment Act, 1960, which document was handed out to all members of the Legislature on the introduction of the Bill in the House, 'The Act is extended to employees of municipalities engaged in horticulture (e.g. employees of parks departments) subject to section 78 of the present Act, to persons employed in reforestation programs, and to employees of employees of employers who engaged in horticulture only as a 'side line', e.g., employees who look after flower beds and lawns of industrial plants'.

There is no suggestion here that employees now employed by Nursery Companies and in Landscaping were to be brought under the provisions of the Act.

The Board being without jurisdiction, these proceedings are hereby terminated."

Board Member, G.R. Harvey dissented and said:

"I dissent. The respondent is an incorporated enterprise, its principal occupation is the commercial use of grass.

In the facts of this case the respondent did not 'cultivate' the product; it was purchased in mature condition requiring only chemical treatment, mechanized stripping, transportation and laying.

An assessment of the nature of the work performed indicates the use of skills normally associated with industry such as bulldozer or grader operators, fork lift operators, truck drivers, power roller operators and the use of labourers not associated with horticulture or requiring a knowledge of the cultivating of gardens, forests, flowers or vegetables, or tilling, preparation for crops, manuring, plowing, sowing or reaping.

It appears the major portion of the work force was employed for this project only.

Websters' definition of horticulture includes the cultivation of forests (silvaculture). It is reasonable to assume the legislature included silvaculture in the coverage of the Act due to the commercial content of forest exploitation.

It is on this apparent reasoning of the legislature that I can find support for an interpretation of the Act in this case where I find the respondent is primarily engaged in rendering a commercial service which is an integral part of over-all planning and design of industrial and institutional construction.

The Act clearly excludes agriculture and horticulture but I suggest would not exclude the commercial transportation, storage, handling, or sale or use of the product.

It is in this area of commercial usage and handling that I find a unit of all employees of the respondent in an appropriate area except those engaged at the sod farm and the usual exclusion of supervisory personnel. On this basis, and with the required evidence of membership, I would certify the applicant."

4924-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Andeen Construction Limited (Respondent).
(GRANTED NOVEMBER 1962).

The Board endorsed the Record as follows:

"The applicant union seeks a bargaining unit covering employees of the respondent when working in 9 counties, namely, Essex, Kent, Lambton, Oxford, Perth, Huron, Middlesex, Bruce and Elgin. In a previous application by this union in September, 1962 affecting another employer, the applicant sought a unit consisting of the last 6 counties enumerated above. The respondent seeks to restrict the bargaining unit to Wingham.

Since the coming into force of section 92 (1) of The Labour Relations Act there has been some uncertainty among both unions and employers as to the effect of the words "geographic area" included in the section. No guide is given in the legislation itself. However it is no secret that the legislation affecting the construction industry was enacted as a result of the Report of the Royal Commission on Labour-Management Relations in the Construction Industry, otherwise known as the Goldenberg Report. On page 29 of the Report it is stated:

"The policy of the Board in de-limiting the area to be covered by a certificate is to accept the prevailing pattern of bargaining as the yardstick. In the absence of such a pattern, it has resorted to the "in and out of" unit, that is, a unit consisting of the employees of an employer in a designated municipality and who perform work either in such municipality or in any place outside to which they may periodically be assigned with the understanding that they would normally return or look to such municipality for re-assignment."

This, in so far as it went, accurately set out the general policy of the Board on these matters up to the coming into force of the amendments to The Labour Relations Act affecting the construction industry in August, 1962.

Since August the Board has been faced with a number of applications in which the problem of "geographic area" has arisen. In dealing with the problem the Board has not departed from the policy referred to

above although it should be noted that in some circumstances the Board has granted a unit "at" a given area rather than "working in or out of" a designated location.

In a number of recent cases the Board has made it clear that it will have regard to the pattern of bargaining in an area. See for example Ball Brothers Limited, File No. 4610-62-R; Newman Brothers Construction Limited, File No. 4615-62-R; Mabco Construction Company Limited, File No. 4726-62-R. However, as was pointed out in the Ball Brothers Limited case (see reconsideration of decision dated November 14, 1962), other factors may well be taken into consideration in a proper case.

In the absence of clear cut guide lines in the legislation itself, we wish to make it clear that at this stage the Board is not going to depart hastily from its previous policies, other than, of course, to follow the legislative direction with respect to project applications. In our opinion this is a field in which the parties themselves ought to make every possible effort to work out solutions. As we understand it, this is one of the matters being discussed by the Joint Labour Management Conference for the Construction Industry of Ontario. Until the parties themselves have had an opportunity to attempt to resolve their differences, the Board does not intend to depart from its well established policies. Should the parties be unable to come to some kind of agreement or understanding, within a reasonable period of time, the Board may then undertake a review of its policy in the light of its experience and the legislative direction in the recent amendments to The Labour Relations Act.

In the present case the established pattern of collective bargaining for the area under consideration is to be found in the collective agreement between the Western Ontario District Council of Carpenters and the General Contractors Section of the London Builders Exchange. This fact was referred to in the Ball Brothers Limited case together with the fact that non-resident contractors of the area covered have signed similar agreements. The area covered by this agreement is the 6 county area consisting of Oxford, Perth, Huron, Middlesex, Bruce and Elgin. This is the area contained in the Board's certificate in the Ball Brothers' case. In the present case the applicant seeks to add the counties of Essex, Kent and Lambton.

It is admitted that the applicant has a collective agreement covering Essex and Kent with the Windsor Builders Exchange and one covering Lambton with the Sarnia Builders and Contractors Association. While some employers have signed agreements with the Western District Council of Carpenters agreeing to be bound by all three agreements referred to above, we are not prepared to say that in the light of the agreements with the other two Exchanges this is sufficient to establish a new collective bargaining pattern.

Accordingly, the Board further finds that all carpenters and carpenters' apprentices in the employ of the respondent in the Counties of Elgin, Middlesex, Perth, Huron, Bruce and Oxford, save and except non-working foremen and persons above the rank of non-working foreman, constitute a unit of employees of the respondent appropriate for collective bargaining.

The evidence relating to the circumstances attending the origination and circulation of the document filed as indicating opposition to the application was given in a most unsatisfactory manner. Circumstances came to light as a result of questions suggested by the representative of the applicant which appear to be in direct conflict with earlier evidence of the witness in question. Viewing all the evidence as a whole we are unable to say that the document in question weakens the evidence of membership submitted by the applicant so as to require the Board to seek the confirmatory evidence of a representation vote."

4610-62-R: United Brotherhood of Carpenters and Joiners of America, A.F.L., C.I.O., C.L.C. (Applicant) v. Ball Brothers Limited (Respondent). (GRANTED OCTOBER 1962).

On November 14th, 1962 the Board further endorsed the Record as follows:

"Request by the respondent that the Board reconsider its decision dated October 19, 1962.

In our opinion the matters and arguments raised by the respondent in its letter of October 23, 1962, were all before the Board and were considered by it when it came to its decision of October 19th. In so far as the matter of "Labour Market Areas" is concerned, it is not the understanding of the Board that this is a matter on which any recommendation has been made particularly in view of the fact that the conference referred to by the respondent in its letter of November 13, 1962, is by no means complete but rather

has been broken down into sub-committees to consider matters raised at the first meetings. In any event, the Board is not aware of any formal recommendation which may have been made or agreed to at the conference.

After duly considering all the representations of the parties we are of the opinion that, with the exception noted below, the request of the respondent that the Board vary or revoke its decision of October 19, 1962, must be rejected. In reaching this conclusion the Board wishes to make it clear to the parties that it is not saying that other factors will not be considered by the Board in determining what is an appropriate "geographic area" in the circumstances of a particular case. What the Board is saying is that in this particular case the Board considers the bargaining unit as set out in its decision of October 19th is the appropriate unit or "geographic area" in the particular circumstances of this case.

The Board, however, does consider that its decision of October 19, 1962, should be varied so as to exclude Huron county. In our view the respondent is right in its contention that the bargaining rights of local 2222 are still in existence. We cannot accept the argument of the applicant, particularly in the circumstances of this case, that local 2222 has, in effect, abandoned its bargaining rights.

The Board therefore confirms its decision of October 19, 1962, except in the following respect:

"The word 'Huron' in the fourth last line of the third paragraph of the Board's decision in this matter dated October 19, 1962, is hereby struck out."

4829-62-R: The National Union of Public Employees (Applicant)
v. The Corporation of the County of Norfolk (Respondent).
(GRANTED NOVEMBER 1962).

The Board endorsed the Record as follows:

"The respondent filed with the Board a certified copy of a by-law of the respondent which purports to declare that The Labour Relations Act does not apply to it in its relations with its employees or any of them, pursuant to the provisions of section 89 of the Act. However, section 5 of the Penal and Reform Institutions Inspection Act, R.S.O. 1960, c. 291, reads as follows:

"Any by-law, rule or regulation of a municipality relating to a jail or lock-up established or maintained by it has force or shall take effect until approved by the Minister".

The respondent informed the Board that the by-law enacted by the respondent in this matter has not been submitted to the Minister of Reform Institutions for approval and accordingly, pursuant to the provisions of section 5 of the Penal and Reform Institutions Inspection Act, the by-law can have no effect in so far as it relates to the jail employees of the respondent."

2501-61-R: United Steelworkers of America (Applicant) v. The International Nickel Company of Canada, Limited (Respondent) v. Sudbury Mine, Mill and Smelter Workers' Union, Local 598 (Intervener) v. Sudbury Mine, Mill & Smelter Workers Local 598, of the International Union of Mine, Mill & Smelter Workers (Intervener) v. International Union of Mine, Mill & Smelter Workers (Intervener) v. Group of Employees.

On January 17, 1962 the Board endorsed the Record in part as follows:

"The applicant in this case has requested that a pre-hearing representation vote be taken.

Three interventions were filed in this matter as follows:

(a) An intervention on behalf of Sudbury Mine, Mill and Smelter Workers' Union, Local 598, over the signature of Donald Gillis, who identifies himself as president, and states that "...the Sudbury Mine, Mill and Smelter Workers' Union, Local 598, is the agent for all workers in the applicant's claim". This intervention is herein-after referred to as Intervention #1;

(b) An intervention on behalf of Sudbury Mine, Mill & Smelter Workers Local 598 of The International Union of Mine, Mill & Smelter Workers, over the signature of Thomas Peter Taylor, who identifies himself as "Duly authorized agent" and alleges inter alia that "The cards filed by the applicant contained a considerable number which were not signed by persons purporting to do so" and that "Employees for whom cards have been filed have not paid the applicant the required fee". This intervention is hereinafter referred to as Intervention #2. Accompanying these documents were other documents, described in the intervention as "revocations of Membership in the United Steelworkers of America signed by

employees in the bargaining unit". Subsequently, the solicitor for this intervener submitted (i) documents which he described as "cards signed by persons who state that they have not signed the United Steelworkers application", (ii) documents which he described as "Revoke cards signed by... persons who had signed a steelworkers Application but not paid the sum of \$1.00, and (iii) other documents which he described as being "signed statements of persons who had desired to be represented by United Steelworkers and have now revoked their membership in the United Steelworkers of America";

(c) An intervention on behalf of International Union of Mine, Mill & Smelter Workers, setting out its interest as "a trade union, (a) represents employees which employees comprise Local 598 of the International Union of Mine, Mill & Smelter Workers and the said Local 598 (b) is the bargaining agent of employees who may be affected by the application". This intervention is hereinafter referred to as Intervention #3. This intervention alleges, inter alia, that "The applicant has not obtained the payment of at least One Dollar (1.00) as a membership fee from those whom it claims to be it's members", and that "The applicant has submitted proof of membership of persons whom it claims to be it's members which are forged or based upon forgery".

In addition, the solicitor who filed Intervention #3 subsequently forwarded to the Board a number of sheets of paper each bearing a number of signatures of persons who desired to object to the application. In the letter accompanying these documents, the solicitor stated "I have been instructed to file these statements of desire to object on behalf of the employees whose names are endorsed thereon". The documents contained in substance the same allegations as those set out in Intervention #3 and then proceeded as follows:

The United Steelworkers of America have conspired with the Executive of Local 598 of the International Union of Mine, Mill and Smelter Workers to prevent any opposition to the organizing activities of the United Steelworkers of America, to prevent its opposition to this application and to subvert the said Local 598 to the United Steelworkers of America and are therefore guilty of unlawful and unfair labour

practices which have the effect of depriving the members of Local 598, I.U.M.M. & S.W. of their right to organize their opposition to the organizing activities of the United Steelworkers of America and therefore render a vote as unlikely to represent the true wishes of the employees in the bargaining unit, for whom Local 598, I.U.M.M. & S.W. holds bargaining rights.

In a letter referred to above, the solicitor also stated:

I have been instructed...to advise you that these employees wish further to raise the objection that

"By reason of the conspiracy between the United Steelworkers of America and the Executive Board of Local 598 of the International Union of Mine, Mill & Smelter Workers and as a direct result thereof the employees in the bargaining unit have been deliberately misled as to the effect on their organization and as to the legal significance of the vote which has been requested by the applicant and that therefore a vote will be unlikely to represent the true wishes of the employees in the bargaining unit."

The objections in Interventions #2 and #3 are identical with those made by Local 637 International Union of Mine, Mill & Smelter Workers with respect to an application for certification made by United Steelworkers of America for certification as bargaining agent for certain employees of the respondent at Port Colborne (Board File No. 2356-61-R). These objections had been dealt with in a decision of this Board in that case issued on November 22, 1961, when the Board held, for the reasons indicated in that decision, that such objections should not bar the taking of a pre-hearing vote, but that the ballot box should be sealed and the ballots not counted until the parties had been afforded full opportunity to present their evidence and make their submissions.

Since the Board had not had an opportunity in the International Nickel (Port Colborne) Case above referred to of dealing with objections of the nature made on behalf of the group of employees, it directed that a hearing be held on the request made by the

solicitors for certain employees of the respondent that a pre-hearing representation vote should not be taken in the matter. As the notice of the hearing set out, "The purpose of the hearing [was] to afford to the employees on whose behalf the request was submitted, to the applicant, to the respondent and to those who [had] filed interventions in this matter, an opportunity to present oral argument on the request".

After careful consideration of the arguments presented, we have come to the conclusion that the considerations, which impelled the Board in the International Nickel (Port Colborne) Case to hold that the objections of the intervener to the taking of a pre-hearing representation vote were not well taken, are equally applicable to the allegations made on behalf of the objectors in the present case. Reference may be had to paragraph 4 of the decision of the Board in the International Nickel (Port Colborne) Case.

Accordingly, the request of the objectors that a pre-hearing vote should not be taken at this time, in so far as it rests on the allegations set out above, is denied."

On February 1, 1962 the Board further endorsed the Record in part as follows:

"The solicitor for the objectors in this matter has requested "RECONSIDERATION OF BOARDS DECISION OF JANUARY SEVENTEEN 1962...ON GROUND THAT THE BOARD FAILED TO DEAL WITH THE ONLY QUESTION BEFORE IT IN THE OBJECTORS APPLICATION NAMELY WHETHER OR NOT THE OBJECTORS ARE ENTITLED TO LEAD EVIDENCE PRIOR TO THE BOARD ORDERING A PRE-HEARING VOTE". In our decision of January 17, 1962, we referred to the decision of the Board in the International Nickel (Port Colborne) Case. The whole tenor of that decision is that any evidence in support of the allegations made by the intervener in that case would be heard by the Board after, and not before, the representation vote was taken. As we pointed out in our decision of January 17 in the instant case,

the considerations, which impelled the Board in the International Nickel (Port Colborne) Case to hold that the objections of the intervener to the taking of a pre-hearing representation vote were not well

taken, are equally applicable to the allegations made on behalf of the objectors in the present case. Reference may be had to paragraph 4 of the decision of the Board in the International Nickel (Port Colborne) Case.

In our opinion, the point raised by the solicitor for the objectors in his request for reconsideration was considered and dealt with in our decision of January 17, 1962 in the instant case. However, to make our position clear beyond a shadow of a doubt, it was our intention to hold that the opportunity for the objectors to lead evidence concerning the allegations in the documents submitted by them and set out in paragraph 3 of the Board's decision of January 17, 1962 and in the accompanying letter from their solicitor would follow and not precede the taking of the pre-hearing representation vote. Needless to say, to ensure that any rights they may have would not be prejudiced, the ballot boxes would have to be sealed."

On June 4, 1962 the Board further endorsed the Record in part as follows:

"On November 28, 1961, the United Steelworkers of America applied to this Board for certification as bargaining agent for certain employees of the respondent company in the unit of employees presently represented by Sudbury Mine, Mill and Smelter Workers' Union, Local 598. In its application, the applicant requested that a pre-hearing representation vote be taken. The International Union of Mine Mill & Smelter Workers opposed the request, as did an intervener which described itself as "Sudbury Mine, Mill & Smelter Workers Local 598 of the International Union of Mine, Mill & Smelter Workers" (this intervention being over the signature of Thomas Peter Taylor, who identified himself as "Duly authorized agent"). Opposition to the taking of a pre-hearing representation vote was also registered by a group of employees. Counsel for these two interveners and the group of employees (all of whom are henceforth referred to in this decision collectively as the "objectors") indicated to us that they had the same interest in these proceedings. The objectors also opposed the application for certification. On January 17, 1962, following a hearing held on December 21, 1961, at which an opportunity was afforded to the objectors to show cause as to why a pre-hearing representation vote should not be taken, the Board, for reasons given in writing, overruled

the objection to the taking of a pre-hearing vote. In due course, the examiner met with the parties and submitted his report to the Board under section 41(2) of the Board's Rules of Procedure. Subsequently, on February 1, 1962, again for reasons given in writing, the Board directed that a pre-hearing representation vote be taken and that the ballot box should be sealed and the ballots not counted "until the parties have been given full opportunity to present their evidence and make their submissions". The representation vote was held as directed on February 27 and 28 and on March 1 and 2, 1962.

Following the taking of the vote, the Board entertained a number of motions by counsel for the applicant. The substance of the motions was as follows:

- (i) that the Board vary its decision of February 1, 1962, and order that the ballot boxes be opened and the ballots counted forthwith;
- (ii) that the Board order the objectors to file with the Board forthwith a list of the names of employees of the respondent who, the objectors alleged, had not made the required payment to the applicant union or whose applications for membership in the applicant union had been forged, and that the Board limit its investigation on the allegations of non-payment and forgery to the names on such lists only; and
- (iii) that a certain allegation, which for convenience might be described as the "conspiracy allegation", be not entertained by the Board because it does not disclose any ground of complaint before this Board and is totally irrelevant to the issues which this Board must by statute inquire into".

The first motion was denied by the Board on March 27, 1962, and the other motions on April 12, 1962.

The objection of the objectors to the application rests on allegations concerning the validity of the documentary evidence of membership filed by the applicant. These allegations fall under three heads:

- (i) that there was misrepresentation to the employees of the respondent of the significance of their signing membership cards in the applicant;
- (ii) that the employees' signatures on some of the membership cards submitted by the applicant were forged; and
- (iii) that some employees signed cards but did not pay dues or fees on their own behalf in accordance with the Board's policy in that regard.

In sum, the objectors contend that the documentary evidence of membership filed by the applicant ought not to be treated by the Board as acceptable evidence of membership in the applicant and that the application should be dismissed.

Hearings were held in Toronto on April 30, and May 1 and 2, 1962, with respect to the first group of allegations, and counsel for all parties were afforded an opportunity to call witnesses, to examine and cross-examine them and to present argument on all phases of the allegations. In so far as the second and third group of allegations are concerned, the Board, through its examiners, conducted preliminary investigations in accordance with its usual practice and, following upon such investigations, it summoned certain persons to appear before the Board at hearings in Sudbury on May 14 and 15. At the hearings at Sudbury, counsel for all parties had an opportunity to cross-examine witnesses summoned by the Board, to submit confirmatory and rebuttal testimony, and to present argument.

Some time prior to the hearings in Sudbury, the Board had invited counsel to make suggestions as to the manner in which, the allegations of the objectors as to "non-payment" and forgery should be dealt with, in view of the large number of persons concerned in them. However, counsel held different views as to how the Board should proceed. The Board thereupon embarked on an investigation into a sample group (about 1800) of the cards filed on behalf of the objectors in support of their allegations. A detailed account of the Board's investigations was given to counsel at the commencement of the hearings held in Sudbury and they were asked to indicate what further investigations they desired the Board to make. In the course of argument following the taking of evidence in Sudbury,

counsel for all parties other than the respondent company informed the Board that they were content to have the Board make a decision as to these allegations on the basis of the evidence then before the Board without any further investigation into the allegations that had been made by the objectors. Counsel for the respondent company indicated throughout the proceedings that the company was taking a neutral position and that it was relying on the Board to make such investigations as it deemed necessary and proper.

We turn now to the first head of the objectors' allegations, namely, that there was misrepresentation to the employees of the respondent of the significance of their signing "Steel" cards. The starting point for this allegation is that Gillis, the president of Sudbury Mine Mill and Smelter Workers Union, Local 598, from the very commencement of his term of office, had always maintained that it was the objective of his administration to affiliate Sudbury Mine Mill and Smelter Workers Union, Local 598, as a viable entity with the Canadian Labour Congress directly and not through the United Steelworkers of America. The objectors sought to establish that, for some time prior to the making of the instant application, Gillis knew that admission to the Canadian Labour Congress was barred to Sudbury Mine Mill and Smelter Workers Union, Local 598, that members of that local could become "affiliated" with the Canadian Labour Congress only by abjuring "Mine Mill" and becoming members of the United Steelworkers of America, and that he deliberately refrained from disclosing these facts to the members of the local. They contend that employees of the respondent company would not have signed "Steel" cards if they had known the true facts as to the terms of "affiliation" with the Canadian Labour Congress and also that there were grave doubts as to whether they would be able to retain the assets of Sudbury Mine Mill and Smelter Workers Union, Local 598 if they became part of the United Steelworkers of America. The objectors endeavoured to show that there was collusion between Gillis, on the one hand, and the applicant and the Canadian Labour Congress, on the other hand, not only in keeping the legal and trade union position from the employees but in leaving the impression that Sudbury Mine Mill and Smelter Workers Union, Local 598, could be reserved intact as an entity within the United Steelworkers of America.

The issue before us is not whether Gillis and his associates did or did not discharge faithfully their functions as officers of Sudbury Mine, Mill and Smelter Workers Union, Local 598, or whether their activities throughout the relevant period were or were not in violation of the constitution of the International Union of Mine, Mill & Smelter Workers. These are matters which lie within the jurisdiction of other tribunals, i.e., the Supreme Court of Ontario (where, we were informed, a number of actions are now pending) and, it may be, the appropriate authorities within the International Union of Mine, Mill & Smelter Workers. Nor are we called upon - except collaterally inconsidering the impact of statements and actions by "Steel" officers and officials on the minds of persons who signed "Steel" cards - to make a determination as to whether there was or was not some sort of "conspiracy" between the Gillis administration, on the one hand, and the applicant and the Canadian Labour Congress or either of them, on the other hand. The sole question we have to answer at this stage is, are we satisfied with the membership evidence produced by the applicant? In arriving at a conclusion on this point, we must of course take into account (a) any evidence presented to us that employees were in fact induced to sign cards and pay dues to the applicant through misrepresentation, on the part of the applicant, its officers and agents, as to the effect, in a material respect, of their so signing and paying, and (b) any evidence that the actions of the applicant, its officers and agents at the relevant times were such that there was a real likelihood employees were misled as to the effect, in a material respect, of their signing and paying.

If we take the documentary evidence of membership filed by the applicant union at its face value, more than 45 per cent of the employees of the respondent in the appropriate bargaining unit signed cards applying for and accepting membership in the United Steelworkers of America. Is there anything in the testimony that has been adduced before us that ought to lead to the conclusion that these cards do not constitute acceptable evidence of the wishes of the signatories?

(a) It was not established in evidence before us that any employee was in fact misled in any material respect. The only witness called in

support of the claim that employees were actually misled admitted that he was in Italy from September 8 to November 5, i.e., during the heat of the organizational campaign, and that, immediately on his return to Sudbury, he signed a "Steel" card with full knowledge that he was thereby applying for membership in the applicant union. It would be stretching the facts a good deal to say that anything that the applicant union may have said or may have done "misled" him.

(b) We come then to the question as to whether the inference can properly be drawn from the evidence that there was a real likelihood the employees had been misled by activities and statements of the applicant's officers and officials or for which they must assume responsibility, as to the effect, in material respect, of the documents they were signing. The fact is that all documentary evidence of membership filed by the applicant consists of cards each of which states clearly and unequivocally that the person who signed the card was applying for and accepting membership in the United Steelworkers of America and that he was authorizing the United Steelworkers, its agents and representatives, to act for him as "a collective bargaining agency". There is not one word on the application card itself referring to "Mine Mill" or to any affiliation of Sudbury Mine, Mill and Smelter Workers Union, Local 598, with the Canadian Labour Congress or even of any connection between the United Steelworkers of America and the Canadian Labour Congress. Nor is there a tittle of evidence to warrant a finding that anyone whose card was submitted to the Board by the applicant had reason to believe that he was signing something other than a "Steel" card. The employees affected by the instant application are persons who have been conditioned to evaluate propaganda and counter-propaganda from opposing factions within "Mine Mill" for several years now and more recently from the applicant and its supporters. There is a large measure of what might be called electioneering in any organizational campaign. But to paraphrase the language of the Stauffer-Dobbie Case, (1959) C.C.H. Canadian Labour Law Reports, Transfer Binder '55-'59, ¶16,147, C.L.S. 76-658, the Board is concerned with the truth or falsity of campaign literature and speeches only to the extent that the ability of the employees to evaluate such literature or speeches may be impaired, e.g., by the use of campaign trickery, to such an extent

that the free desires of the employees cannot be determined. Certainly all the witnesses whose testimony we heard impressed us as being persons who possessed a clear understanding of what was going on and it would take much more than was produced in this case to convince us that the ability of the rest of the employees to evaluate the propaganda that was issued here was in any way impaired. The evidence led by the objectors is, in our opinion, insufficient to warrant our drawing the inference that there was a real likelihood that employees were misled in a material respect by anything said or done by the applicant or those for whom they can properly be held responsible. At best, the evidence does no more than lead us to speculate as to the notices and reasons that may have induced particular persons to sign "Steel" cards. It may be, if all the facts had been presented in a purely objective fashion, i.e., if all the advantages and disadvantages of joining the United Steelworkers of America or of remaining with "Mine Mill" had been placed before each employee, some employees who signed "Steel" cards might not have done so, and some employees who did not sign "Steel" cards might have joined the applicant. But it would be unrealistic for us to impose such a high standard of objectivity on those active on either side in an organizational campaign, just as it would be unrealistic to expect such a standard to be observed in other fields of human endeavour. However that may be, speculation is not an adequate ground for holding that the membership cards filed by the applicant should be treated as invalid and doubts resting on speculation must surely be capable of resolution through a secret ballot wherein every employee is free to express his preference.

(ii) As to the second head of the objectors' allegations, the investigations that the Board has conducted into the allegations of forgery (we have already noted the views of counsel for the parties concerning the extent of these investigations) have not disclosed any instance where the signature on any card submitted by the applicant was forged.

(iii) There remain for consideration the allegations on non-payment. Here again, as we have noted above, counsel for the parties indicated that they were prepared to abide by the Board's decision based on the testimony that had been placed before it up until the conclusion of the hearings on May 1, 1962. In assessing the weight to be given to this evidence,

reference may be had to the decision of the Board in the Webster Air Equipment Case, (1958) C.C.H. Canadian Labour Law Reports, Transfer Binder '55-'59, ¶16,110, C.L.S. 76-598:

In dealing with this situation, the Board has made a distinction between two types of cases: (i) where the action impugned is that of a responsible officer or official of a union, and (ii) where the action is that of a supporter or canvasser on behalf of an applicant who occupies an inferior office or no office in the union. In so far as the first of these is concerned the Board said in the RCA Victor Company Case, (1953) CCH Canadian Labour Law Reporter, Transfer Binder ¶17,067, C.L.S. 76-412, that, even where only a single card is defective and it is submitted with the knowledge of such responsible officer or official, "the Board may come to the conclusion that it cannot place reliance on any of the evidence of membership submitted by the union". Where the irregularity relates to evidence of membership procured by a person of lesser rank in the union organization, the Board has taken the position that the card in respect of which the irregularity is established is disallowed and the weight to be given to the remaining evidence of membership will depend on the nature of the irregularity and the extent to which the objectionable practice was resorted to in the signing up of members.

There is nothing in the testimony we have heard which indicates in any way that any responsible officer or official of the applicant union submitted a defective card or that any such card was submitted with the knowledge of a responsible officer or official of the applicant union. The evidence before us relates exclusively to rank and file members of the applicant. Nor is there any evidence that any union officer or official was so lax as to the way in which documentary evidence of payment was obtained that he may reasonably be taken to have shut his eyes to any impropriety. (See R.C.A. Victor Case, (1953) C.C.H. Canadian Labour Law Reports, Transfer Binder '49-'54, ¶17,067, C.L.S. 76-412). Even if for present purposes we were to accept the construction of the evidence most favourable to the objectors - and for these purposes it is

unnecessary for us to deal more fully with the evidence on this score, except perhaps to note that, of the many instances investigated by the Board's examiners, only a few isolated cases came to out attention in which there was even prima facie evidence of non-payment - there is nothing to indicate, especially in view of the size of the bargaining unit and the vast number of persons involved in the campaign, that there was such a pattern of irregularity as would, in line with the Board's policy as set out in its written decisions, cast doubt on the validity of all the cards submitted by the applicant (See R.C.A. Victor Case, supra). In arriving at this conclusion, we have taken into account the extent of the Board's investigations into the objectors' allegations as to non-payment and forgery.

Having regard to all the foregoing considerations, we direct that the Registrar cause the ballots cast in the representation vote held on February 27 and 28 and March 1 and 2, 1962, in this matter to be counted as soon as the necessary arrangements for the count can be made."

On September 14th, 1962 the Board further endorsed the Record as follows:

"The International Union of Mine, Mill & Smelter Workers (hereinafter referred to as the "International Union"), one of the interveners in this matter, has requested that the Board reconsider its decision herein dated June 4, 1962. That decision dealt in part with various allegations of impropriety on the part of the applicant. Although counsel for the International Union did not specify what portions of the decision he wished to have the Board reconsider, it is clear from the material filed in support of the request and from the course of the argument at the hearing before the Board held on Thursday, September 6, 1962, that the request is confined to the findings of the Board as to the validity of the evidence of membership submitted to the Board by the applicant in support of its application for certification as bargaining agent for certification as bargaining agent for certain employees of the respondent. After carefully considering the

material and representations submitted by counsel for the International Union in support of the request and the written representations thereon of counsel for the applicant and for the intervener Sudbury Mine, Mill & Smelter Workers Local 598 of the International Union of Mine, Mill & Smelter Workers (hereinafter referred to as the "Sudbury Local"), the Board directed that the Registrar list the matter for hearing and, on instructions from the Board, the Registrar notified the parties that that "at this hearing, counsel for the intervener, International Mine of Mine, Mill & Smelter Workers, will be afforded an opportunity of indicating the nature, type and scope of the evidence that he desires to adduce in support of his request and the action that he proposes the Board should take in the light of such evidence".

At the hearing, counsel for the International Union and for the Sudbury Local stated in substance that they proposed to call witnesses who would testify concerning the testimony given at hearings before another division of the Board, on the application by United Steelworkers of America (hereinafter referred to as "Steel") for certification as bargaining agent for certain employees of Falconbridge Nickel Mines, Limited, by two persons who acted as organizers for Steel in the instant case, concerning the testimony of other witnesses at those hearings as to how Steel's membership campaign was conducted and as to the validity of membership cards submitted by Steel in that case, and concerning the testimony and the opinions of expert witnesses as to the genuineness of the signatures on a number of the membership cards filed with the Board by Steel in that case. Counsel for the International Union and for the Sudbury Local informed the Board that they had no evidence at this stage which would establish that the organizers concerned forged any cards in connection with the application in the Falconbridge Case or which would establish that they forged any cards or submitted forged cards to the Board in connection with the application in the instant case. The most they felt they could show was that there were suspicious circumstances relating to membership cards "validated" by the organizers concerned which were filed by Steel in the Falconbridge Case, that the organizational campaign in the Falconbridge Case and in the instant case were conducted at the same time, out of the same office and as part of one operation.

Counsel for the International Union and for the Sudbury Local submitted that, in the light of such circumstances being established, the Board ought to embark on a further investigation of the documentary evidence of membership obtained by the organizers concerned which was filed by Steel in the instant application. (This investigation would, of course, be in addition to the very exhaustive investigation and inquiry into the Steel cards already conducted by the Board at the instance of the International Union and the Sudbury Local.) Counsel for the International Union also suggested that three organizers of Steel be summoned by the Board to appear before the Board to "explain what they had done, and that what was done in Falconbridge was not done here".

It must be borne in mind that we are not dealing here with a case in which the issue is as to whether certain evidence is admissible or inadmissible at the initial stage of the hearing of an application. The question that comes for consideration here is, upon what grounds should the Board reconsider a decision in a matter of this kind. The situation is analogous to that which arises when a party asks a court to order a new trial on the basis of after-discovered evidence. Although the jurisdiction of the Board under subsection 1 of section 79 of The Labour Relations Act to reconsider its decision is probably wider than the jurisdiction of a court to order a new trial - "the Board may at any time, if it considers it advisable to do so, reconsider any decision" - it is of value to consider the approach adopted by the courts. The general principle applicable to such situations is summed up in the well-known Latin maxim, quoted by McTague J. A. in Duff and Fleming v. McBride, [1942] O. R. 22, at p. 26, interest reipublicae ut sit finis litium. Somewhat freely translated the maxim is that it is in the public interest that litigation should not be prolonged. As Osler J. A. said in Rathbone v. Michael, (1920) 20 O. L. R. 503, at p. 507: "There is no doubt that the rule which governs the admission of new or further evidence is rightly fenced round with strict limitations." In Varette v. Sainsbury, [1928] S. C. R. 72 (at p. 76), [1928] 1 D.L.R. 273 (at p. 276), Rinfret J. (as he then was), delivering the judgment of the Supreme Court of Canada, said: "On an application for a new trial on the ground that new evidence has been discovered since the trial,

we take the rule to be well established that a new trial should be ordered only where the new evidence proposed to be adduced could not have been obtained by reasonable diligence before the trial and the new evidence is such that, if adduced, it would be practically conclusive". In Rathbone v. Michael, supra, Osler J. A., in dealing with the nature of the evidence which ought to be adduced in such a situation, said:

... the practice has been ... stated in Young v. Kershaw, 81 L.T.R. 531 (C.A.) ... as is said in [that] case, ... "as to the class of evidence, it must be such that if adduced it would be practically conclusive - that is, evidence of such a class as to render it probable almost beyond doubt that the verdict would be different". Merely corroborative evidence, evidence to admit which would be merely setting oath against oath, evidence obtained under suspicious circumstances, or evidence which might enable an opponent's witness to be cross-examined more effectively, will not do. It must, as a rule, be "of some fact or document essential to the case, of the existence or authenticity of which there is no reasonable doubt, or no room for serious dispute"...

This statement of the law is quoted with approval by Middleton J. A. in Duff and Fleming v. McBride, supra, at pp. 24-5. Although, as we have already pointed out, we are not bound by the rules laid down in the cases cited, it appears to us that they provide a sound set of principles which the Board ought generally to consider as a guide for the exercise by the Board of its discretion under subsection 1 of section 79 of the Act.

Let us examine the nature of the evidence we are asked to admit. As we have already indicated, counsel for the International Union and for the Sudbury Local do not say that they have evidence that any responsible officials of Steel forged documentary evidence or submitted forged cards to the Board in the instant case with a view to misleading the Board. They go no further than to say that cards bearing signatures simulated by persons unknown were filed with the Board in the Falconbridge Case, that these cards were validated by three organizers for Steel, and that no satisfactory explanation for the submission of these cards was

given to the Board in the Falconbridge Case. This is what they propose to establish before the Board and they submit that it may cause the Board to conduct further investigations and they speculate that such investigations may disclose improper conduct by Steel organizers of sufficient significance to lead the Board to reverse its decision of June 4, 1962, and dismiss the application. The facts they wish the Board to consider are to be established primarily by testimony as to what was given in evidence before another division of the Board in another case - The Falconbridge Case. In this connection, it should be noted that the Board in that case, because of the course the proceedings took, was not called upon to and did not make any finding as to whether the Steel organizers were guilty of any improper conduct and indeed did not make any finding on any aspect of the evidence. In effect, then, counsel for the International Union and for the Sudbury Local are asking this division of the Board to make a finding on what occurred in the Falconbridge Case and, since there is no transcript of the proceedings in that case, to make that finding on the basis of secondary evidence and probably incomplete evidence. The problems with which we would be faced if we were to engage in such an exercise are amply apparent. Even if a transcript were available, there would be the difficult, if not impossible, task of assessing the credibility of witnesses who testified in that proceeding, without having observed those witnesses. In the absence of a transcript, our task would be further complicated by the fact that we would be called upon to weigh the evidence on the basis of an assessment of the credibility of witnesses testifying as to what was said by witnesses in the Falconbridge hearings - a difficulty illustrated by the variance between the affidavits of Iukin Robinson and Dwight Storey that were filed by the International Union and by Steel respectively in connection with the request for reconsideration of our decision in this case - as well as the credibility of witnesses who might be called upon to repeat the testimony they gave in the Falconbridge Case.

Having regard to the nature of the evidence counsel for the International Union and the Sudbury Local propose to call, we are of opinion that that evidence can not be said to satisfy the principles laid down in the cases cited above; we are unable to find that it would be "practically conclusive" of "probable almost beyond doubt that the verdict would be different" nor is it evidence of facts

"essential to the case, of the existence or authenticity of which there is not reasonable doubt, or no room for serious dispute". If we were to reconsider our decision in this case on the basis of the evidence proposed to be adduced, we would have to go so far beyond the principles which the courts, with their lengthy experience in matters of this sort, have evolved that there would be practically no finality to Board decisions where it could be shown that an organizer who engaged in improper conduct in one case had participated in organizational campaigns in other cases in which a decision has been issued. In view of our findings and in view of the considerations set out above, we do not deem it advisable to reconsider our decision of June 4, 1962, in this matter and the request for reconsideration is denied."

On November 15, 1962 the Board further endorsed the Record as follows:

"Application under subsection 1 of section 79 (1) of The Labour Relations Act that the Board reconsider its decision of October 15th in this matter.

Upon due notice to all parties, extensive hearings were held by the Board in this matter. At these hearings every opportunity was afforded to the parties to present both evidence and argument on every aspect of this case.

In the course of the argument, counsel for one or other of the parties touched on all the "grounds upon which this application [for reconsideration] is made".

In reaching its conclusions the Board gave careful consideration to all of the evidence and every aspect of the argument presented to it. All the issues dealt with in the reasons for decision of the majority as well as in the reasons for decision of Board Member R. W. Teagle, who dissented, were fully canvassed by the Board before the decision of October 15, 1962, was issued. Accordingly, we do not consider it advisable for the Board to reconsider its decision of October 15, 1962.

Board Member R.W. Teagle, while not dissenting, stated:

"Without derogating from the opinions expressed in my dissent of October 15, 1962, I concur in the conclusion on the request for reconsideration arrived at by my colleagues. There are no grounds set out in the request for reconsideration that would warrant the request being granted."

REQUEST FOR REVIEW IN CERTIFICATION APPLICATION DISPOSED OF

BY BOARD

4531-62-R: Lumber & Sawmill Workers Unions of the U.B. of C. and J. of A. Local 2537 (Applicant) v. Chapleau Lumber Company Ltd. (Respondent). (DISMISSED OCTOBER, 1962).

The Board endorsed the Record as follows:

"It appears to the Board on an examination of the records of the applicant and the records of the respondent that less than forty-five per cent of the employees of the respondent in the bargaining unit proposed by the applicant were members of the applicant at the time the application was made."

The Board further endorsed the Record as follows:

"The applicant has requested the Board to review its decision in this matter dated October 18th, 1962 pursuant to section 45 (2) of the Board's Rules of Procedure. However as this application was not dismissed pursuant to section 45 of the Board's Rules of Procedure, the Board is treating this request for review as if it were made pursuant to section 79 of The Labour Relations Act.

The applicant in its request for a review challenges the respondent's list of employees in the bargaining unit described in the application of the applicant, which has been filed in this matter.

The applicant applies to be certified as bargaining agent for certain employees of the respondent and requested that a pre-hearing representation vote be taken in this matter.

In accordance with the Board's usual procedure, the Board appointed an examiner and authorized him, among other things, to confer with

the parties as to the description and composition of the voting constituency and the list of employees to be used for the purpose of any vote that might be directed by the Board.

The examiner met with the parties pursuant to the Board's direction on October 2nd, 1962 and conducted an examination of the list of employees filed by the respondent in this matter and the parties agreed to remove three persons from the original list of employees filed by the respondent and further agreed that the number of employees on the respondent's list as of the date of the making of the application in the unit proposed by the applicant was 103.

The applicant at the pre-hearing meeting conducted by the examiner had an opportunity to challenge the name of any persons appearing on the respondent's list and in fact did challenge the names of three persons.

The Board is therefore of opinion that the applicant had ample opportunity at the time of the examiner's pre-hearing vote meeting to make whatever challenges it deemed necessary and in fact it took advantage of this opportunity and it is now too late for the applicant to reopen the proceedings to make further challenges especially in view of the fact that the applicant failed to particularize the names of the persons whom the applicant now states it has reason to believe should not appear on the respondent's list of employees.

The Board therefore does not consider it advisable to reconsider its decision dated October 18th, 1962."

REVIEW OF BARGAINING UNIT DETERMINED BY BOARD

3311-61-R: Welders Public Garage Employees Motor Mechanics and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers of America (Applicant) v. Elgin Motors Co. Ltd. (Respondent). (GRANTED APRIL 1962).

On November 1st, 1962 the Board further endorsed the Record as follows:

"This division of the Board has been requested by another division of the Board composed of G.W. Reed, Vice-Chairman and Board Members D.B. Archer and C.C. Young to review the file in this matter with the view of clarifying the bargaining unit found to be appropriate in our decision dated the 16th day of April, 1962.

Having reviewed the file in this matter, for the purposes of clarity the Board notes the agreement of the parties at the hearing held on the 11th day of April, 1962 that the persons classified by the respondent as service advisors, counter-men, parts counter-men, card girls, time clerks, warrenty clerks, parts roadmen and phoneman are excluded from the bargaining unit under the excluded classification of office and sales staff.

The Board further notes that the respondent's list of employees filed in this matter does not include the classification of control operator."

SPECIAL ENDORSEMENTS IN CONCILIATION APPLICATIONS DISPOSED
OF BY THE BOARD

4443-62-C: International Union of Operating Engineers, Local 793 International Brotherhood of Teamsters, etc. Local 230 International Hod Carriers, etc. Local 183 (Council of Unions) (Applicants) v. Dundas Construction Company Limited (Member of Metropolitan Toronto Sewer & Watermain Contractors Association (Respondent). (DISMISSED NOVEMBER 1962).

The Board endorsed the Record as follows:

"In our view the notice given by the applicant to the Metropolitan Sewer and Watermain Association, dated January 31, 1961, was not a valid notice under the collective agreement between the applicant and the respondent because the Association was not a party to that agreement. We are unable to find anything in the agreement or in the alleged past practice of the parties to justify an inference that the respondent agreed that notice could be given to the association.

However, assuming that a notice to the Association would have been a valid notice to the respondent, that notice did not comply with the terms of the collective agreement and was, at the very least, one day late. In these circumstances and having regard to the language of article XI of the collective agreement, the principle set out in the Hield Brothers decision is applicable and the agreement therefore continued in effect for another year despite the notice given to the respondent by the letter dated February 28, 1961. We would not be prepared to hold that any authority entrusted to the Association to accept notice on behalf of the respondent (the Association not being a party to the collective agreement) would include the right to accept a late notice.

It is clear that the respondent has not waived its right to raise the issue of a late notice by meeting with the applicant and bargaining with it. The applicant did not give notice to the respondent between the 90th and 60th day prior to March 31, 1962.

Having regard to the above consideration we find that the agreement between the applicant and the respondent continued in effect from year to year and is presently in effect. The applicant will be entitled to give notice of termination or revision in accordance with article XI of the collective agreement "Not more than ninety days and not less than sixty days before the 31st day of March," 1963.

The present application is untimely and is accordingly dismissed."

4723-62-C: Welders Public Garage Employees Motor Mechanics and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers of America (Applicant) v. McVittie Hayes Co. Ltd. (Toronto) (Respondent). (REFERRED NOVEMBER 1962).

On November 8th, 1962 the Board endorsed the Record as follows:

"At the hearing, the representative of the applicant indicated that he was prepared to consent to the Board issuing a directive to the parties to meet, bargain in good faith and make every reasonable effort to make a collective agreement and to report their progress thereon to the Board within 10 days, with the understanding that, if the parties

were unable to reach agreement within that period, the Board would grant the request for conciliation services without a further hearing.

The Board therefore direct that the parties meet, bargain in good faith and make every reasonable effort to make a collective agreement and report their progress in that regard to the Board within 10 days from the date hereof.

If the representative of the applicant had not consented to a direction in the above terms, the matter would have been referred to the Minister forthwith.

In its reply, the respondent submitted that conciliation should not be granted to the parties on the ground that "the applicant may no longer represent the employees in the bargaining unit for which it is the bargaining agent since the bargaining unit has had numerous changes and has been increased." At the hearing, the only evidence on the representation issue that counsel for the respondent advanced was that, at the time of certification, there were 33 employees in the bargaining unit and that 11 of them had since been replaced.

Counsel for the respondent contended that the Board as constituted on the instant application was entitled, by virtue of the terms of subsection 1 of section 79 of The Labour Relations Act, to reconsider the decision of the Board as constituted on April 11, 1962, when the decision certifying the applicant as bargaining agent for the employees of the respondent was issued. Assuming for present purposes, but without in any way expressing an opinion on the question as to whether this division of the Board is entitled to reconsider the decision given on April 11th, 1962, by another division of the Board, counsel for the respondent is in effect asking the Board to terminate the bargaining rights of the applicant. In view of the decision of the Board in the Permanent Transit-Mix Concrete Case, (1959) C.C.H. Canadian Labour Law Reports Transfer Binder 1955-59, ¶16,138 C.L.C. 76-644 the Board cannot permit the respondent to thus circumvent the express provisions of the Act with respect to termination applications. Such an application by the respondent, at this time and in the circumstances of this case, would be untimely. The respondent's request must therefore be denied."

PART 2

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TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

	Nov. 1962	Number of applications filed 1st 8 months of fiscal year	
		62-63	61-62
I Certification	60	513	546
II Declaration Terminating Bargaining Rights	9	52	46
III Declaration of Successor Status	1	11	2
IV Conciliation Services	74	847	780
V Declaration that Strike Unlawful	-	26	33
VI Declaration that Lockout Unlawful	-	7	1
VII Consent to Prosecute	1	67	74
VIII Complaint of Unfair Practice in Employment (Section 65)	12	88	98
IX Miscellaneous	<u>1</u>	<u>18</u>	<u>14</u>
TOTAL	<u>158</u>	<u>1629</u>	<u>1594</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	Nov. 1962	Number 1st 8 months of fiscal year	
		62-63	61-62
Hearings & Continuation of Hearings by the Board	87	828	651

TABLE III

APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

	Nov.	1st 8 months of fiscal yr.	
	<u>1962</u>	<u>62-63</u>	<u>61-62</u>
I Certification	89	570	534
II Declaration Terminating Bargaining Rights	8	56	34
III Declaration of Successor Status	2	3	8
IV Conciliation Services	100	831	802
V Declaration that Strike Unlawful	-	26	34
VI Declaration that Lockout Unlawful	1	9	1
VII Consent to Prosecute	64	115	75
VIII Complaint of Unfair Practice in Employment (Section 65)	17	94	89
IX Miscellaneous	<u>2</u>	<u>10</u>	<u>13</u>
TOTAL	<u>283</u>	<u>1714</u>	<u>1590</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD BY TYPES AND BY DISPOSITION

Disposition	Nov. '62	1st 8 mos. 62-63	fiscal yr 61-62	Nov. '62	1st 8 mos. 62-63	fiscal yr 61-62
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I Certification

Certified	59	382	329	1304	24505	8476
Dismissed	24	137	129	1344	8914	5411
Withdrawn	<u>6</u>	<u>51</u>	<u>76</u>	<u>160</u>	<u>1688</u>	<u>2085</u>
TOTAL	<u>89</u>	<u>570</u>	<u>534</u>	<u>2808</u>	<u>35107</u>	<u>15912</u>

II Termination of Bargaining Rights

Terminated	3	33	13	238	1024	324
Dismissed	4	15	19	83	457	509
Withdrawn	<u>1</u>	<u>8</u>	<u>2</u>	<u>25</u>	<u>233</u>	<u>64</u>
TOTAL	<u>8</u>	<u>56</u>	<u>34</u>	<u>346</u>	<u>1714</u>	<u>897</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S38 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

Number of appl'ns dis. of
Nov. 1st 8 mos. fiscal yr.
'62 62-63 61-62

III Conciliation Services*

Referred	94	741	752
Dismissed	2	16	12
Withdrawn	<u>4</u>	<u>74</u>	<u>38</u>
TOTAL	<u>100</u>	<u>831</u>	<u>802</u>

IV Declaration that
Strike Unlawful

Granted	-	6	4
Dismissed	-	7	22
Withdrawn	<u>-</u>	<u>13</u>	<u>28</u>
TOTAL	<u>-</u>	<u>26</u>	<u>34</u>

V Declaration that
Lockout Unlawful

Granted	-	1	-
Dismissed	1	5	1
Withdrawn	<u>-</u>	<u>2</u>	<u>-</u>
TOTAL	<u>1</u>	<u>8</u>	<u>1</u>

VI Consent to
Prosecute

Granted	6	17	14
Dismissed	2	8	9
Withdrawn	<u>56</u>	<u>90</u>	<u>52</u>
TOTAL	<u>64</u>	<u>115</u>	<u>75</u>

*Includes applications for conciliation services re unions
claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED
OF BY THE BOARD

	Nov. 1st 8 months of fiscal yr.		
	<u>'62</u>	<u>62-63</u>	<u>61-62</u>
<u>*Certification After Vote</u>			
pre-hearing vote	2	28	32
post-hearing vote	1	17	29
ballots not counted	-	2	
<u>Dismissed After Vote</u>			
pre-hearing vote	2	15	15
post-hearing vote	8	45	39
ballots not counted	-	1	2
TOTAL	<u>13</u>	<u>108</u>	<u>117</u>

*Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF
BY THE BOARD

	Nov. 1st 8 months of fiscal yr.		
	<u>'62</u>	<u>62-63</u>	<u>61-62</u>
*Respondent Union Successful	-	5	2
Respondent Union Unsuccessful	<u>2</u>	<u>14</u>	<u>12</u>
TOTAL	<u>2</u>	<u>19</u>	<u>14</u>

*In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer; the incumbent union is thus the respondent.

MONTHLY REPORT



DECEMBER 1962

ONTARIO LABOUR RELATIONS BOARD

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APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS

BOARD DURING DECEMBER 1962

Bargaining Agents Certified During December
No Vote Conducted

1289-61-R: United Steelworkers of America (Applicant) v.
Continental Can Company of Canada Limited (Gair Paper Products
Division).

Unit #1: "all employees of the research division of the
respondent's paper products group at Toronto, save and except
technical service representatives, and the secretary to the
manager." (2 employees in the unit).

2438-61-R: National Union of Public Employees (Applicant) v.
Municipality of Metropolitan Toronto (Respondent).

Unit: "all chief electricians in the employ of the respondent
in Metropolitan Toronto." (3 employees in the unit).

The Board endorsed the Record as follows:

"In its application for certification the applicant
proposes a bargaining unit of "all the chief operators
and chief electricians of the respondent at Metropolitan
Toronto". The respondent claims that "employees in the
unit described by the applicant exercise managerial
functions or are employed in a confidential capacity in
matters relating to labour relations and are not employees
under The Labour Relations Act, R.S.O. 1960".

The evidence before the Board is that, until 1958,
persons classified as "Chief Operator - Station and Plant"
and "Chief Works Electrician" were included in the bar-
gaining unit defined in the collective agreement between
the respondent and The Toronto Municipal Employees' Asso-
ciation Local No. 79, a chartered local of the present
applicant. During negotiations in 1958 between the res-
pondent and Local 79, the respondent requested the ex-
clusion of these classifications, among others, from the
bargaining unit and also made an application to the Board
under subsection 2 of section 68 of The Labour Relations
Act (now subsection 2 of section 79) for a declaration by
the Board that the person holding such positions were not
employees under The Labour Relations Act on the ground
that they were excluded by subsection 3 of section 1 of
the Act. In the 1960-62 collective agreement between them,
the respondent and Local 79 agreed to the exclusion of
such positions, including the two positions affected by
this application, from the bargaining unit defined in that
agreement, and the respondent withdrew its application for
a declaration under section 68 (2).

In the instant application the Board appointed an Examiner to inquire into and report to the Board on the duties and responsibilities of the persons classified by the respondent as chief operators and chief electricians. Following the service of the Report of the Examiner, dated May 14, 1962, upon the parties, a hearing was held in this matter by the Board pursuant to subsection 4 of section 41 of the Board's Rules of Procedure.

At the time at which the application was made there were 26 persons occupying the position of chief operator. On the basis of all the evidence before it, the Board finds that 16 of these persons clearly exercise managerial functions. The evidence before the Board does not establish as clearly that the remaining 10 persons in this group exercise managerial functions. Having regard to

- (1) the practice of the respondent and Local 79 in treating all 26 persons as a group,
- (2) the understanding reached by the respondent and Local 79 with respect to this group of employees in concluding their 1960-62 collective agreement,
- (3) the evidence before the Board with respect to these 10 employees, and
- (4) the relationship between Local 79 and the applicant in this case,

the Board is of opinion that these 10 persons should be treated in the same way as the other 16 persons in this group. Accordingly, the Board finds that chief operators exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act and are not employees for the purposes of the Act.

At the time at which the application was made there were 3 persons occupying the position of chief electrician. On the basis of the evidence before it, the Board finds that 2 of these persons do not exercise managerial functions. The evidence with respect to the third employee in this position is not conclusive. The Board is of opinion that the chief electricians should continue to be treated as a group and finds that the chief electricians are employees for the purposes of The Labour Relations Act."

Board Member, E. Boyer dissented and said:

"I dissent. I would have found that the chief operators, with the exception of those employed at the Main Sewage Treatment Plant, do not exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act. Accordingly, I would have found that they are employees of the respondent for the purposes of The Labour Relations Act."

Board Member, R.W. Teagle said:

"On the basis of all the evidence I would have found that W. A. Murray (chief electrician) exercises managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act and would not have included him in the bargaining unit."

3276-61-R: International Association of Machinists (Applicant) v. Mother Parker's Tea & Coffee Ltd. (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman, salesmen and office staff." (45 employees in the unit).

3774-62-R: United Steelworkers of America (Applicant) v. International Harvester Company of Canada, Limited (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener).

Unit: "all employees of the respondent at its systems and data services centre in Hamilton save and except supervisors and persons above the rank of supervisor."
(27 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 472)

3857-62-R: International Union of Mine Mill and Smelter Workers, (Applicant) v. Nickel Mining and Smelting Corp. (Gordon Lake Division) (Respondent).

Unit: "all employees of the respondent at its mining site in the Gordon Lake area, save and except shift bosses, foremen, persons above the rank of shift boss or foreman, laboratory staff, employees in the engineering and geological departments, office staff, security guards and students hired for the summer school vacation period."
(112 employees in the unit).

The Board endorsed the Record as follows:

"For the purposes of clarity the Board declares that the samplers, save and except the chief sampler are included in the bargaining unit."

4006-62-R: The National Union of Public Service Employees, (Applicant) v. The Dysart Municipal Telephone System (Respondent).

Unit: "all employees of the respondent in the District of Haliburton, save and except foremen and chief operators, persons above the ranks of foreman and chief operator, office staff and persons regularly employed for not more than 24 hours per week."

Board Member D.B. Archer dissented on the exclusion from the bargaining unit of named employees.

4127-62-R: International Union, United Automobile Aircraft and Agricultural Implement Workers of America (UAW) (Applicant) v. York Gears Limited (Respondent).

Unit: "all office and clerical employees of the respondent in Metropolitan Toronto, save and except supervisors, persons above the rank of supervisor, cost accountant, general accountant, personnel department employees, registered nurses, chauffeur-messenger, plant protection personnel, salesmen, foremen and supervisors excluded from the subsisting collective agreement between the respondent and the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, Local 984, and one secretary to each of the following: vice-president, comptroller, factory manager, procurement manager, personnel manager and staff assistant to the executive vice-president."
(71 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

The Board endorsed the Record as follows:

"For the purposes of clarity the Board declares that Spiros Melemis (repair and overhaul engineering technician), Lloyd I. Luttrell (quality control technician), G.B. Collin (gear technician), D. Kennedy, W.H. Kennedy, Wallace Kirijewski, Gasper Forrai and P.R. Tozer (laboratory technicians), D.K. Harding, Sidney Brown, Charles Clapham, (estimator-time study-methods men, formerly classified as time study men and time study estimators), A. Corry, William Camm, Stan Linton and Leonard Wybrew (process planners) and C.I. Ilines, Tony Inglehearn and Eric Rueter (tool designers) do not exercise managerial functions within the meaning of section 1 (3) (b) of the Labour Relations

Act and are employees of the respondent included in the bargaining unit.

The Board further declares that E. Brown and W. Eckerman (despatchers) exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act, and are not included in the bargaining unit.

The Board notes that at the time the application was made there was no one occupying the position of X-ray technician in the employ of the respondent and accordingly makes no finding as to whether a person so classified would exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act.

The Board also notes that J. Shah (laboratory technician) left the employ of the respondent subsequent to the time at which the application was made and that the report of the examiner, dated October 9th, 1962, contains no evidence as to his duties and responsibilities. The Board is accordingly unable to determine whether J. Shah exercises managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act, but points out that the determination of this question could not affect the membership position of the applicant so as to reduce it to a vote position."

Board Member R.W. Teagle, while not dissenting said:

"I would have found that G.B. Collin (gear technician) and Wallace Kirijewski (laboratory technician) exercise managerial functions within the meaning of section 1 (3) (b) of The Labour Relations Act and are not included in the bargaining unit."

4181-62-R: International Association of Bridge, Structural and Ornamental Iron Workers Local 721 (Applicant) v. Ball Brothers Limited (Respondent).

Unit: "all rodmen employed by the respondent at Cobourg, save and except non-working foremen and persons above the rank of non-working foreman." (5 employees in the unit).

On November 7th, 1962 the Board endorsed the Record as follows:

"On July 12th, 1962, the applicant, the International Association of Bridge Structural and Ornamental Iron Workers Local 721, made an application (Board file No. 4181-62-R) for

certification as bargaining agent for a unit of employees of Ball Brothers Limited engaged in reinforcing rod work in the County of Northumberland. The list of employees filed by the respondent as persons who would be in the proposed unit sought by the applicant, discloses the names of four persons each classified as "Labourer and Rodman" and one person classified as "Labourer". At the first hearing of this application on July 26th, 1962, the representative for the respondent employer, pointed out that the Board, differently constituted, (Board file No. 4103-62-R) had earlier on July 20th, 1962, granted a certificate to the International Hod Carriers' Building and Common Labourers Union of America, Local 597, certifying it as "the bargaining agent of all construction labourers of Ball Brothers at Cobourg, save and except non-working foremen and persons above the rank of non-working foreman". He stated that the same five employees, named as being in the proposed bargaining unit sought by the applicant in the instant case were also included in the list of employees submitted by it in the earlier application by Local 597 of the International Hod Carriers' Building and Common Labourers Union of America. At that time these five employees were all designated as "Labourers". The respondent argues that as the applicant, Local 597, in the earlier case did not request their exclusion and as the Board did not exclude them in its endorsement in that case, these persons have, therefore, been included in the bargaining unit for which the applicant, Local 597, has been certified and accordingly the instant application must be dismissed. The applicant in this case contends that the five persons are and were at all material times rodmen and, therefore, are not included in the bargaining unit covered by the Board's certificate in the earlier case. In order to protect the interests of Local 597 and in view of the fact that it was not given notice of the hearing in the case, a further hearing was held on August 15th, 1962, to afford this union the opportunity to make any representations which it desired to make on this point. This union did not appear at the hearing on August 15th, 1962, but informed the Board by letter that its understanding of the matter was that the five persons in question were not included in the bargaining unit for which it was certified as bargaining agent.

The application in the earlier case, 4103-62-R was made on June 28th, 1962, and the terminal date was fixed at July 12th, 1962. The application in the instant case, was, therefore, made on the terminal date of the earlier case.

In the instant case the respondent submitted an historical record of the time engaged by the five employees on reinforcing rod work and on labour work. The representative for the union at the hearing informed the Board that he was prepared to accept this statement as an accurate presentation of the facts. This record shows that before and from the date when the previous application was made, the five employees were performing both rod work and labour work in the varying number of hours per week as set forth in the record.

In view of all the circumstances in this case and the representations of the parties, we request the division of the Board which presided in the earlier case, Board file No. 4103-62-R, to clarify its decision as to whether it intended to include or exclude from the bargaining unit for which it certified, Local 597, The International Hod Carriers' Building and Common Labourers Union of America, the five persons in question."

On December 5, 1962, the Board further endorsed the Record as follows:

"The Board finds that E. Bolster, B. Lindle, W. Slacht and E. Ellis were employed by the Respondent as rodmen on the date of the application made by the International Hod Carriers' Building and Common Labourers Union of America, Local #597 (Board File No. 4103-62-R), namely June 28th, 1962, and that accordingly these employees were not included in the bargaining unit of "all construction labourers of Ball Brothers Limited at Cobourg, save and except non-working foremen and persons above the rank of non-working foreman", for which the International Hod Carriers' Building and Common Labourers Union of America, Local #597, was certified as the bargaining agent on July 20th, 1962. The Board finds that these persons are included in the bargaining unit herein."

Board Member C.C. Young dissented and said:

"I dissent. I would have found that the employees in question are covered by the Board's certificate of July 20th, 1962, issued to the International Hod Carriers' Building and Common Labourers Union of America, Local # 597, and that these persons were at all material times employed as construction labourers."

4501-62-R: International Hod Carriers', Building & Common Labourers' Union of America, Local 493 (Applicant) v. T. Taillefer (Respondent).

Unit: "all construction labourers in the employ of the respondent in the City of Sudbury and within a radius of 35 miles from the City of Sudbury Federal Building, save and except non-working foremen and persons above the rank of non-working foreman." (7 employees in the unit).

4622-62-R: Restaurant, Cafeteria & Tavern Employees Union, Local 254 of the Hotel & Restaurant Employees & Bartenders' International Union (Applicant) v. Food Service Management Ltd. (Respondent).

Unit: "all employees of the respondent at the C.F.T.O. Channel Nine (9) Television Station Building in Metropolitan Toronto, save and except chef-manager, persons above the rank of chef-manager and office staff." (5 employees in the unit).

4937-62-R: Retail, Wholesale and Department Store Union, (Applicant) v. Canada Bread Company Limited (Respondent).

Unit: "all employees of the respondent at Oakville, save and except route foremen, those above the rank of route foreman, office staff, persons regularly employed for not more than 24 hours per week, and students employed for the school vacation period." (5 employees in the unit).

4942-62-R: Dental Technicians Union, Local 43, I.J.W.U. (Applicant) v. Sweet & Kerbel Laboratories Ltd. (Respondent).

Unit: "all dental technical employees of the respondent at Toronto, save and except foremen and persons above the rank of foreman." (11 employees in the unit).

The Board endorsed the Record as follows:

"For the purposes of clarity, the Board declares that the office, clerical, sales and delivery personnel are not included in the bargaining unit."

4943-62-R: Office Employees International Union Local 81, (Applicant) v. Johnston & Boon Co., Limited (Respondent).

Unit: "all employees of the respondent at Fort William, save and except department heads, persons above the rank of department head, secretary to the manager, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (12 employees in the unit).

4951-62-R: International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers Local Union 419, Warehousemen and Miscellaneous Drivers (Applicant) v. Canadian Cannery Limited (Respondent).

Unit: "all employees of the respondent at its warehouse in Metropolitan Toronto, save and except foremen, those above the rank of foreman, office and sales staff."
(15 employees in the unit).

4955-62-R: National Union of Public Service Employees (Applicant) v. Welland Arena Commission (Respondent).

Unit: "all employees of the respondent at Welland, save and except the manager, persons above the rank of manager, office staff and persons regularly employed for not more than 24 hours per week." (2 employees in the unit).

4960-62-R: International Woodworkers of America (Applicant) v. Forest Valley Lumber Limited (Respondent).

Unit: "all employees of the respondent in Stafford Township, save and except foremen, persons above the rank of foreman, office and sales staff." (17 employees in the unit).

4974-62-R: International Hod Carriers' Building and Common Laborers' Union of America, Local 837 (Applicant) v. Pigott Structures Limited (Respondent).

Unit: "all construction labourers in the employ of the respondent in the Counties of Lincoln, Welland and Haldimand, save and except non-working foremen and persons above the rank of non-working foreman." (15 employees in the unit).

4975-62-R: Retail, Wholesale and Department Store Union AFL-CIO-CLC (Applicant) v. Dominion Stores Limited (Respondent).

Unit: "all employees of the respondent at its stores at Sturgeon Falls, save and except store manager, persons above the rank of store manager, office staff, persons regularly employed for not more than 24 hours per week and students hired during the school vacation period."
(16 employees in the unit).

4978-62-R: Boot and Shoe Workers Union, affiliated with the American Federation of Labour and the Congress of Industrial Organizations (Applicant) v. Emille Shoe Limited (Respondent).

Unit: "all employees of the respondent at Burlington, save and except foremen and foreladies, persons above the rank of foreman and forelady, office, design and sales staff."
(63 employees in the unit).

4982-62-R: Local 280 of the Hotel & Restaurant Employees' & Bartenders' International Union A.F.L.-C.I.O.-C.L.C. (Applicant) v. Dorchester Realty Co. Ltd. (Respondent).

Unit: "all tapmen, bartenders, beverage waiters, bar boys and improvers in the employ of the respondent in its Emerald Room and Cork Room at Toronto, save and except manager, persons above the rank of manager and persons regularly employed for not more than 24 hours per week." (13 employees in the unit).

4983-62-R: Retail, Wholesale and Department Store Union, AFL:CIO:CLC (Applicant) v. The Canada Starch Company Limited, Best Foods Division (Respondent).

Unit: "all employees of the respondent at Ayr, save and except supervisors, persons above the rank of supervisor, office staff and persons regularly employed for not more than 24 hours per week." (26 employees in the unit).

4984-62-R: Retail, Wholesale and Department Store Union, AFL:CIO:CLC (Applicant) v. Stratford I.G.A. Foodliner (Respondent).

Unit: "all employees of the respondent at its stores at Stratford, save and except store managers, persons above the rank of store manager and persons regularly employed for not more than 24 hours per week." (10 employees in the unit).

4989-62-R: North York Board of Education Independent Caretakers' Union (Applicant) v. The Board of Education for the Township of North York (Respondent).

Unit: "all caretakers employed by the respondent at its schools in the Township of North York, save and except assistant supervisors and persons above the rank of assistant supervisor." (435 employees in the unit).

4990-62-R: General Truck Drivers Local 879, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers (Applicant) v. Peninsula Ready Mix and Supplies Ltd. (Respondent).

Unit: "all employees of the respondent at Beamsville save and except foremen and persons above the rank of foreman, office and sales staff." (6 employees in the unit).

The Board endorsed the Record as follows:

"Although the applicant asserts that this is a case falling within section 92 of The Labour Relations Act the Board does not find it necessary to deal with this question in this particular case

since there was a hearing before the Board and it is clear that the bargaining unit proposed by the applicant is one to which it would be entitled whether the case falls within section 92 or not.

The question as to whether an employer of ready-mix and other drivers delivering material to a construction site is an employer operating a business in the construction industry is an important one for management and labour alike. In the present case the Board has not had the benefit of argument from management and the applicant in its presentation to the Board did not deal with the legal aspects of the problem. The Board is hopeful that in the near future the occasion may arise when full argument will be presented to the Board so that a decision may be reached."

4995-62-R: Milk and Bread Drivers, Dairy Employees, Caterers and Allied Employees Local Union No. 647, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Inter City Baking Company Limited (Respondent).

Unit: "all employees of the respondent at its depot at Peterborough, save and except supervisors, persons above the rank of supervisor and office staff."
(6 employees in the unit).

5008-62-R: United Steelworkers of America (Applicant) v. Patricia Silver Mines Limited (Respondent).

Unit: "all employees of the respondent in Coleman Township in the Cobalt area, save and except shift bosses, foremen, assistant chief chemists, persons above the ranks of shift boss, foreman or assistant chief chemist, office staff, laboratory staff, employees in the engineering and geological departments, security guards, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (27 employees in the unit).

5009-62-R: United Brotherhood of Carpenters and Joiners of America Local Union 802 (Applicant) v. Hartwell Brothers (Windsor) Limited (Respondent).

Unit: "all employees of the respondent at Windsor, save and except foremen, persons above the rank of foreman, office and sales staff." (10 employees in the unit).

5015-62-R: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Esna Limited (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except foremen, persons above the rank of foreman, office and sales staff." (13 employees in the unit).

5017-62-R: United Brotherhood of Carpenters and Joiners of America, Local 2486, (Carpenters Section) Sudbury Building and Construction Trades Council (Applicant) v. Trio Carpenters (Contractors) (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent at North Bay and within a radius of twenty miles from the post office at North Bay, save and except non-working foremen and persons above the rank of non-working foreman." (20 employees in the unit).

Unit proceeded by the following paragraph:

(Having regard to the pattern of collective bargaining in the North Bay area as indicated by the collective agreements filed by the applicant in this case and to the decision in Ball Brothers Limited, file number 4610-62-R)

The Board endorsed the Record as follows:

"In its reply the respondent requested a hearing. The reasons advanced were; (1) that the respondent was bound to pay its carpenters a minimum wage and did not feel an increase was possible; (2) that the respondent does not contemplate further projects in the area described in the application for certification.

The respondent, through its solicitor, was given an opportunity to inspect the collective agreements filed by the applicant in support of its application and was asked to submit any further representations it cared to make in connection with its request for a hearing or with the application in general. The respondent did in fact inspect the collective agreements but made no further representations to the Board.

Clearly, the first reason advanced by the respondent is not one which this Board can take into consideration in determining the merits of the application. This is a matter for collective bargaining should the applicant be certified. The second reason advanced is not one which in the opinion of the Board necessitates a hearing. The respondent is seeking to limit any certificate issued by the Board to a project. By section 92 (1) of The Labour Relations Act the Board "shall not confine the unit to a particular project". This fact having been pointed out to the respondent and the respondent having inspected the collective agreements on file with the Board and having made no further representations though given the opportunity to do so, the Board is satisfied that it is now in a position to deal with the application."

5028-62-R: United Brotherhood of Carpenters and Joiners of America, Local 1988 (Applicant) v. Welcon Limited (Respondent).

Unit: "all carpenters and carpenters' apprentices in the employ of the respondent at Perth, save and except non-working foremen and persons above the rank of non-working foreman." (3 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 379)

5059-62-R: General Truck Drivers, Local 879, International Brotherhood of Teamsters Chauffeurs Warehousemen and Helpers (Applicant) v. Transit Mixed Concrete Limited (Respondent).

Unit: "all employees of the respondent within a twenty-five mile radius from St. Catharines City Hall save and except foremen and persons above the rank of foreman, office and sales staff." (23 employees in the unit).

The Board endorsed the Record as follows:

"Although the applicant asserts that this is a case falling within section 92 of The Labour Relations Act the Board does not find it necessary to deal with this question in this particular case since there was a hearing before the Board and it is clear that the bargaining unit proposed by the applicant is one to which it would be entitled whether the case falls within section 92 or not. The Board does not consider it necessary to give further directions in this case."

5060-62-R: Amalgamated Lithographers of America, Local 12, Toronto (Applicant) v. West Toronto Printing House Limited (Respondent) v. Toronto Typographical Union, No. 91, I.T.U. (Intervener) v. Toronto Printing Pressmen & Assistants' Union Local No. 10 (Intervener).

Unit: "all platemakers, strippers and camera operators in the preparatory department and all pressmen, feeders and press helpers in the lithographic department of the respondent at Toronto, save and except non-working foremen and persons above the rank of non-working foreman." (16 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

5105-62-R: United Brotherhood of Carpenters and Joiners of America, Local 2486, (Carpenters Section) Sudbury Building and Construction Trades Council (Applicant) v. F. A. Gomoll & Sons Ltd. (Respondent).

Unit: "all carpenters and carpenters apprentices in the employ of the respondent at North Bay and within a radius of 20 miles from the post office at North Bay save and except non-working foremen and persons above the rank of non-working foreman." (2 employees in the unit).

The Board endorsed the Record as follows:

"For the purposes of clarity, the Board declares that Mr. Gomoll, Sr. and his two sons although occupied in carpentry work from time to time, are shareholders in the respondent company and are not included in the bargaining unit."

Certified Subsequent to Pre-Hearing Vote

4820-62-R: The Canadian Union of Operating Engineers (Applicant) v. Carling Breweries Limited (Respondent) v. Local 944, International Union of Operating Engineers (Intervener).

Unit: "all stationary engineers and persons primarily engaged as their helpers employed by the respondent at its boiler room and compressor room at Windsor, save and except the chief engineer and persons above the rank of chief engineer." (9 employees in the unit).

Number of names on eligibility list	9
Number of ballots cast	9
Number of ballots marked in favour of applicant	8
Number of ballots marked in favour of intervener	1

4919-62-R: The National Union of Public Employees (Applicant) v. The Parry Sound General Hospital (Respondent).

Unit: "all employees of the respondent at its hospital at Parry Sound, save and except professional medical staff, graduate nursing staff, undergraduate nurses, graduate pharmacists, undergraduate dietitians, graduate dietitians, student dietitians, technical personnel, supervisors, foremen, persons above the rank of supervisor or foreman, chief engineer, office staff and persons regularly employed for not more than 24 hours per week." (130 employees in the unit).

The Board endorsed the Record in part as follows:

"For the purposes of clarity, the Board declares that the term technical personnel comprises physiotherapists, occupational therapists, psychologists, electro-encephalographists, electrical shock therapists, laboratory, radiological, pathological and cardiological technicians."

Number of names on revised eligibility list		104
Number of ballots cast		102
Number of spoiled ballots	2	
Number of ballots marked in favour of applicant	59	
Number of ballots marked as opposed to applicant	41	

Certified Subsequent to Post-Hearing Vote

964-61-R: Amalgamated Lithographers of America, Local 12 (Applicant) v. Recording & Statistical Corporation Limited (Respondent).

Unit: "all lithographers, their apprentices and helpers in the employ of the respondent in Metropolitan Toronto, save and except foremen and persons above the rank of foreman." (16 employees in the unit).

(UNIT AGREED TO BY THE PARTIES).

Number of names on revised eligibility list		16
Number of ballots cast		16
Number of ballots marked in favour of applicant	10	
Number of ballots marked as opposed to applicant	7	

(SEE INDEXED ENDORSEMENT PAGE 367)

2629-61-R: Kam-Kotia Porcupine Local (Applicant) v. Kam-Kotia Porcupine Mines Ltd. (Respondent) v. General Workers' Union Local 1602, Canadian Labour Congress (Intervener).
(APPLICANT DISMISSED, INTERVENER CERTIFIED).

Unit: "all employees of the respondent at its mine, mill and plant in Robb Township in the District of Cochrane, save and except shift bosses, foremen, persons above the ranks of shift boss and foreman, office staff, persons employed in the engineering and geological departments, chief chemist, assistant chief chemist and security guards." (65 employees in the unit).

On November 7, 1962, the Board endorsed the Record in part as follows:

"The applicant is a newly formed organization and its representative at the hearing informed the Board that the applicant has not adopted a constitution. In these circumstances the Board finds that the applicant is not a trade union for the purposes of The Labour Relations Act. (See the decision of the Board in the Drummond Transit Company Case, File No. 16978-58; February 1959, Monthly Report, page (31)."

Number of names on revised eligibility list		70
Number of ballots cast	67	
Number of spoiled ballots	3	
Number of ballots marked in favour of intervener	53	
Number of ballots marked as opposed to intervener	11	

2890-61-R: International Hod Carriers' Building and Common Labourers' Union of America, Local 183 (Applicant) v. First Line Contracting Ltd. (Respondent).

Unit: "all construction labourers employed by the respondent within a 25 mile radius from Toronto City Hall, save and except non-working foremen, persons above the rank of non-working foreman and shop and yard employees."
(7 employees in the unit).
(UNIT AGREED TO BY THE PARTIES).

Number of names on eligibility list		7
Number of ballots cast	7	
Number of ballots marked in favour of applicant	6	
Number of ballots marked as opposed to applicant	1	

4297-62-R: International Union of Operating Engineers Local 866 (Applicant) v. Welland County General Hospital (Respondent) v. Building Service Employees' International Union Local 204 (Intervener).

Unit: "all stationary engineers employed in the boiler room of the respondent at its hospital at Welland, save and except chief engineer." (6 employees in the unit).

The Board endorsed the Record as follows:

"The Board further finds that Joseph McGuire is not included in the bargaining unit described above and that he was not eligible to vote in the voting constituency determined in the Board's direction of August 31st, 1962."

Board Member G.R. Harvey dissented and said:

"In so far as Joseph McGuire is excluded from the bargaining unit, I dissent. On the basis of the evidence before the Board I would have found that he is commonly associated in his work and bargaining with the stationary engineers and therefore eligible for inclusion in the bargaining unit determined by the Board in this matter."

Number of names on eligibility list		6
Number of ballots cast	6	
Number of ballots segregated (not counted)	1	
Number of ballots marked in favour of applicant	5	
Number of ballots marked in favour of intervener	0	

4503-62-R: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Tung-Sol of Canada Limited (Respondent).

Unit: "all employees of the respondent in Chinguacousey Township, save and except supervisors, persons above the rank of supervisor and office staff." (57 employees in the unit).

(SEE INDEXED ENDORSEMENT PAGE 377)

Number of names on revised eligibility list		66
Number of ballots cast	66	
Number of ballots segregated (not counted)	2	
Number of ballots spoiled	1	
Number of ballots marked in favour of applicant	36	
Number of ballots marked as opposed to applicant	27	

4893-62-R: International Woodworkers of America (Applicant) v. Heintzman and Company Limited (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman and office and sales staff." (24 employees in the unit).

Number of names on revised eligibility list		28
Number of ballots cast	28	
Number of ballots marked in favour of applicant	22	
Number of ballots marked as opposed to applicant	6	

Applications for Certification Dismissed No Vote Conducted

2974-61-R: Local Union No. 2108, International Brotherhood of Electrical Workers, (A.F.L.-C.I.O.-C.L.C.) (Applicant) v. Toronto Hydro-Electric Commission (Respondent) v. National Union of Public Service Employees (Intervener).

Unit: "all staff employees of the respondent in Metropolitan Toronto, save and except the executive general office staff, the personnel office staff, the claims office staff, managers, assistant managers, supervisors and assistant executives, foremen and other employees performing foreman's functions, professional engineers, confidential secretaries to the managers, persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (769 employees in the unit).
(UNIT AGREED TO BY THE PARTIES).

4442-62-R: Retail Clerks International Association, (Applicant) v. Shoppers City Limited (Respondent). (27 employees).

The Board endorsed the Record as follows:

"The Board finds that the applicant is a trade union within the meaning of section 1 (1) (j) of The Labour Relations Act.

In this case, the applicant asserts that the bakery department employees in the respondent's foodmart or Food Market constitute a unit of employees appropriate for collective bargaining. The Food Market, operated by the respondent, consists of 6 departments namely, fish, delicatessen and cheese, meat, groceries, produce, bakery and service. An examiner was appointed to inquire into the composition of the bargaining unit.

After carefully considering the report of the examiner, dated October, 1962, together with the various written representations made thereon by the applicant, dated November 19 and 22, 1962, and by the respondent, dated November 20 and 21, 1962, we are of the opinion that the bargaining unit proposed by the applicant is not an appropriate unit.

We find further that the appropriate unit in this case is an all employee unit in the respondent's food-market (with the usual exclusions) and that the applicant has less than forty-five per cent of the employees in such appropriate bargaining unit as members.

The application is therefore dismissed."

Board Member G. Russell Harvey dissented and said:

"I dissent. On the evidence I am satisfied that the employees in the bakery department constitute a unit appropriate for collective bargaining and, assuming all other matters in order, I would have certified the applicant."

4734-62-R: International Union of Operating Engineers, Local 793 (Applicant) v. Chisnell-Ganton Limited (Respondent).

Unit: "all employees of the respondent at the City of Sudbury and within a radius of 35 miles from the city of Sudbury Federal Building engaged in the operation of cranes, shovels, bulldozers, and similar equipment and those primarily engaged in repairing of same, compressor operators and mobile crane operators, save and except non-working foremen and persons above the rank of non-working foreman."
(9 employees in the unit).

On November 26, 1962, the Board in directing the vote endorsed the Record in part as follows:

"As we view the evidence in this case respecting the objections filed by a group of employees, we are unable to conclude that management played any part in the inspiration, origination or circulation of the document in question. In fact, the evidence is quite to the contrary and there is no rational ground that we have been able to discover upon which we could reject that evidence. In so far as the raise in wages is concerned, we find that this was a matter decided upon at least two weeks before any employees were signed up as members by the applicant. There is nothing in the evidence to show that the respondent was aware of any union activity at the time the decision was made to give an increase in wages.

We are reinforced in our views by reason of the fact that after the objectors had testified respecting the origination and circulation of the document objecting to the application, the applicant was given an opportunity to investigate the circumstances surrounding the origination and circulation of that document and, if it considered it advisable to do so, to file allegations in relation thereto. The applicant subsequently informed the Board that it did not intend to make any charges."

Board Member G.R. Harvey dissented and said:

"I dissent.

In assessing the evidence within the context of all the events I am led to conclude:

(1) that the respondent in this relatively small unit was aware of union organizing activity before the decision to grant a wage increase was made;

(2) that the decision to grant the wage increase was not made on October 1st but at a time more closely associated to the pay day on which the wage increase was made known to the employees, about October 19th;

(3) that no weight should be given the petition in opposition to the union for two reasons. Firstly, it is not reasonable or normal to assume that employees will take membership in a union, pay initiation fees, then renounce their membership within a few days unless some undue and compelling influence has been exerted to change their decision to join the union. Secondly, it is not reasonable to assume the cessation of work of the five employees at the shop, where a twenty-minute meeting was called during working hours and signatures secured by the witness in support of the petition, was unknown to the management.

In my opinion there is no support in practice or reason for the claim that a decision was made on or about October 1st to grant the wage increase. Retroactivity is a common characteristic of collective bargaining but is entirely foreign to broad employer practice in the absence of collective bargaining. I am confident practitioners in this field would agree that the unilateral granting of wage or salary increases without union bargaining are invariably announced well in advance of the commencement of the effective period by which the employer is entitled to expect the full effect of increased incentive from the commencement of the period.

In this case the employer's decision to back-date the increase must be viewed within the framework of other considerations.

Union cards were signed October 12 to 16th. Wage increases were paid October 19th. An application for certification was filed October 22. The petition in opposition is dated October 29.

It is worthy of note that the witness in support of the petition gave a qualified reply to a question, 'Was anyone in management present at the twenty minute meeting when the signatures were secured?' Answer, 'Supervision was probably about but I did not see them.'

It is inconceivable that the entire work force at the shop could stop work for twenty minutes without the knowledge of management who were 'probably about'.

Under such circumstances one must pull a long bow to reach the conclusion that there was no particular purpose for the retroactive wage increase, that management was unaware of the cessation of work for the meeting or that a petition was being circulated. The record of Board statistics indicates that a majority of petitions in opposition to unions have been found to be employer inspired.

In this case I contend the act of the employer in granting a wage increase on the eve of an application for certification must be considered to be an act designed to dissuade employees from their decision to take union membership and thus must be considered an attempt at 'seeking to compel an employee to refrain from becoming a member of a trade union'.

In my opinion an employer is on thin ice in relation to Section 50(c) (See The Brown's Bread case (1945) D.L.S. 7-1173) if increases or improvements are granted during a union campaign or on the eve of an application, unless the adjustment is of a periodic or regular type, and falls into its proper time phase.

I would attach no weight to a petition created in the circumstances of this case whether employer assistance was proven or not, and would certify the applicant without a vote."

On December 5, 1962 the Board further endorsed the Record as follows:

"A representation vote having been directed in this matter on November 26, 1962, the applicant has now requested leave to withdraw its application. The Board, following its usual practice in such cases, dismisses the application.

The attention of the parties is drawn to the Mathias Ouellette Case (1955) C.C.H. Canadian Labour Law Reporter, Transfer Binder 1955-59 ¶16026, C.L.S. 76-485."

4815-62-R: The Canadian Union of Operating Engineers (Applicant) v. Dominion Woolens & Worsteds (1959) Ltd. (Respondent) v. United Textile Workers of America - Local 347 (Intervener). (6 employees).
(SEE INDEXED ENDORSEMENT PAGE 378)

4918-62-R: International Union of Operating Engineers Local 796 (Applicant) v. The Board of Management of the Sudbury Civic Arena and Community Centre (Respondent). (4 employees in the unit).

The Board endorsed the Record as follows:

"The Board finds that the respondent is a municipality as defined in The Department of Municipal Affairs Act, and that it has declared by resolution pursuant to the provisions of section 89 of The Labour Relations Act that The Labour Relations Act shall not apply to it in its relations with its employees or any of them. In view of the action of the respondent in making such a declaration, the Board has no jurisdiction to process this application further and the application is accordingly terminated."

4936-62-R: National Union of Public Service Employees (Applicant) v. Owen Sound Board of Education (Respondent). (18 employees).

The Board endorsed the Record as follows:

"The applicant appears to allege that in order to fulfil the provisions of Section 89 of The Labour Relations Act the respondent must proceed by way of by-law rather than resolution. It is only in the case of a municipal council that the declaration must be made by by-law. The respondent is entitled to act by resolution.

Alternatively, the applicant seems to suggest, although it is not clear, that the declaration of the respondent must be made or approved by the municipal council. The respondent is a separate corporation within the meaning of the Secondary Schools and Board of Education Act (R.S.O. 1960 c 362). This being so, any declaration of the respondent does not have to be made or approved by the municipal council.

The Board finds that the respondent is a municipality as defined in The Department of Municipal Affairs Act, (R.S.O. 1960 ch. 98) and that it has declared by resolution pursuant to the provisions of section 89 of The Labour Relations Act that The Labour Relations Act shall not apply to it in its relations with its employees or any of them. In view of the action of the respondent in making such a declaration, the Board has no jurisdiction to process this application further and the application is accordingly terminated."

4939-62-R: The Canadian Union of Operating Engineers (Applicant) v. Thor Industries Ltd (Respondent) v. United Steelworkers of America (Intervener). (2 employees).

4954-62-R: National Union of Public Service Employees (Applicant) v. The Corporation of the County of Kent (Respondent).

Unit: "all employees of the respondent in Kent County, save and except the chief turnkey, chief matron and persons above the rank of chief turnkey or chief matron, office staff and persons regularly employed for not more than 24 hours per week." (14 employees in the unit).

The Board endorsed the Record as follows:

"The respondent filed with the Board a photostatic copy of a by-law of the respondent which purports to declare that the respondent does not desire to come within the powers and provisions of The Labour Relations Act.

The respondent informed the Board that the by-law enacted by the respondent in this matter has not been submitted to the Minister of Reform Institutions for approval pursuant to the provisions of section 5 of the Penal and Reform Institutions Inspection Act R.S.O. 1960 c 291.

Having regard to the decision of the Board in The Corporation of the County of Norfolk Case, Board File #4829-62-R, the by-law can have not effect in so far as it relates to the jail employees of the respondent."

4963-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Ball Brothers Limited (Dufferin County; Simcoe County; the Townships of Rama, Mara, Thorah and Brock in Ontario County; Victoria County; Peterborough County; the Township of South Monaghan in Northumberland County; the Township of Cavan in Durham County; the Provisional County of Haliburton; the Townships of McClure, Wicklow, Bangor, Hershel, Monteagle, Carlow, Mayo, Cashel, Faraday, Dungannon, Wollaston and Limerick in Hastings County; the District of Muskoka; the Townships of Harrison, Burton, McKenzie, Ferrie, Lount, Machar, Laurier, Shawanaga, Burpee, Haggerman, Croft, Chapman, Strong, Joly, Carling, Ferguson, McDougall, McKellar, Spence, Ryerson, Armour, Proudfoot, Cowper, Foley, Christie, Monteith, McMurrich, Perry, Bethune, Congar, and Humphrey in the District of Parry Sound; the Townships of Ballantyne, Wilks, Pentland, Boyd, Paxton, Biggar, Osler, Lister, Butt, Devine, Bishop, Freswick, McCraney, Hunter, McLaughlin, Bower, Finlayson, Peck, Canisbay and Sproule in the District of Nipissing) (Respondent). (6 employees).

5049-62-R: Independent Wire and Cable Workers Union (Applicant) v. General Wire & Cable Company Limited (Respondent). (155 employees).

5076-62-R: International Association of Machinists (Applicant) v. International Harvester Company of Canada Ltd. (Respondent). (128 employees).

The Board endorsed the Record as follows:

"For the reasons given at the hearing and having regard to the applicant's request to withdraw this application, the application is dismissed."

5098-62-R: United Brotherhood of Carpenters and Joiners of America (Applicant) v. Starnino and Cesaroni Ltd. (Counties of Wellington, Waterloo, Brant, Norfolk, Dufferin, the Township of Nassagaweya, and that portion of Esquesing Township that lies west of Highway Number 25) (Respondent). (4 employees).

The Board endorsed the Record as follows:

"The applicant failed to file with the Board Form 60, Declaration Concerning Membership Documents, Construction Industry. In accordance with its usual practice, the application is therefore dismissed."

18,746-59: International Union United Automobile, Aircraft, Agricultural Implement Workers of America, (UAW-AFL-CIO) (Applicant) v. Robinson Industrial Crafts Ltd. (Respondent).

Unit: "all the employees of the respondent at London, save and except foremen, persons above the rank of foreman and office and sales staff." (61 employees in the unit).

Certification Dismissed subsequent to Post-Hearing Vote

3263-61-R: Laundry, Dry Cleaning and Dye House Workers International Union, Local 351 (Applicant) v. Baby Valet Diaper Service Ltd. (Respondent).

Unit: "all employees of the respondent at Metropolitan Toronto, save and except foremen, persons above the rank of foreman, driver salesmen and office staff." (7 employees in the unit).

Number of names on revised
eligibility list
Number of ballots cast

8
8

Number of ballots marked in favour of applicant	3
Number of ballots marked as opposed to applicant	5

4561-62-R: International Hod Carriers' Building and Common
Labourers Union of America Local 1250 (AFL-CIO) (C.L.C.)
(Applicant) v. Inter-Provincial Paving Company Limited
(Respondent).

Unit: "all construction labourers of the respondent employed
in Ottawa and Eastview, and in the Townships and municipalities
immediately adjacent thereto, in Ontario, save and except non-
working foremen and persons above the rank of non-working fore-
man." (11 employees in the unit).
(UNIT AGREED TO BY THE PARTIES).

(SEE INDEXED ENDORSEMENT PAGE 375)

Number of names on revised eligibility list		5
Number of ballots cast	5	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	5	

4581-62-R: International Association of Machinists (Applicant)
v. Hap Lahn Motor Sales (Respondent).

Unit: "all employees of the respondent at Hanover, save and
except foremen, persons above the rank of foreman, office
and sales staff and persons regularly employed for not more
than 24 hours per week." (2 employees in the unit).

Number of names on revised eligibility list		2
Number of ballots cast	2	
Number of ballots cast in favour of applicant	0	
Number of ballots marked as opposed to applicant	2	

4582-62-R: International Association of Machinists (Applicant)
v. MacMicking Motors (Respondent).

Unit: "all employees of the respondent at Hanover, save and
except foremen, persons above the rank of foreman, office
and sales staff and persons regularly employed for not more
than 24 hours per week."
(5 employees in the unit).

Number of names on revised eligibility list		5
Number of ballots cast	5	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	5	

4585-62-R: International Association of Machinists (Applicant) v. Durham Hanover Motors Ltd. (Respondent).

Unit: "all employees of the respondent at Hanover, save and except foremen, persons above the rank of foreman, office and sales staff and persons regularly employed for not more than 24 hours per week." (5 employees in the unit).

Number of names on revised eligibility list		5
Number of ballots cast	5	
Number of ballots marked in favour of applicant	0	
Number of ballots marked as opposed to applicant	5	

4598-62-R: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Applicant) v. George L.J. Trottier carrying on business under the firm name and style of Aylmer I.G.A. Food Market (Respondent).

Unit: "all meat department employees of the respondent at Aylmer, save and except persons regularly employed for not more than 24 hours per week and students hired for the school vacation period." (4 employees in the unit).

Number of names on eligibility list		4
Number of ballots cast	4	
Number of ballots cast in favour of applicant	0	
Number of ballots marked as opposed to applicant	4	

4692-62-R: General Truck Drivers Local 938, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. C.F. Aitchison Transport Limited (Respondent).

Unit: "all employees of the respondent at Peterborough and Milliken, save and except foremen, persons above the rank of foreman and office staff." (25 employees in the unit).

Number of names on revised eligibility list		25
Number of ballots cast	23	
Number of ballots marked in favour of applicant	2	
Number of ballots marked as opposed to applicant	21	

4705-62-R: Brotherhood of Painters, Decorators and Paper-hangers of America, Local 1890 (Applicant) v. Jones Neon Displays Limited (Respondent).

Unit: "all employees of the respondent at Hamilton engaged in the erection, fabrication, installation and maintenance of neon signs and displays, save and except supervisors, persons above the rank of supervisor and office and sales staff." (19 employees in the unit). (UNIT AGREED TO BY THE PARTIES).

Number of names on revised eligibility list		18
Number of ballots cast	18	
Number of ballots marked in favour of applicant	6	
Number of ballots marked as opposed to applicant	12	

4789-62-R: International Union of United Brewery, Flour, Cereal, Soft Drink & Distillery Workers of America, AFL-CIO-CLC (Applicant) v. Royal Crown Cola Limited (Respondent).

Unit: "all employees of the respondent in Metropolitan Toronto, save and except sales supervisors, route managers, foremen, persons above the ranks of sales supervisor, route manager and foreman, office staff and salesmen other than route salesmen."

On November 20, 1962 a representation vote was directed and Board Member D.B. Archer in his dissent said:

"I dissent. I would have given no weight to the petition filed in this matter and would have certified the applicant for the following reasons:

the petition was originated at a meeting on the company premises immediately following a company sales meeting, all signatures were obtained on the company premises.

I do not believe that this type of evidence should weaken the union's membership position as evidenced by signatures, counter-signatures and money payments."

Number of names on revised eligibility list		22
Number of ballots cast	22	
Number of ballots marked in favour of applicant	6	
Number of ballots marked as opposed to applicant	16	

4908-62-R: International Association of Machinists (Applicant)
v. Canadian Longyear Limited (Respondent).

Unit: "all production and maintenance employees of the respondent at its North Bay plant, including shift foremen and charge hands but excluding watchmen, office, clerical and salaried employees." (45 employees in the unit).

On November 28, 1962, the Board endorsed the Record in part as follows:

"Having regard to the decision of the Board in the Barnett-McQueen Case, (1959) C.C.H. Canadian Law Reporter, Transfer Binder T16,139, the voting constituency in this case must consist of employees who are included in the bargaining unit defined in the collective agreement between the respondent and Canadian Longyear Shop Employees Association."

Number of names on revised eligibility list		44
Number of ballots cast	43	
Number of ballots marked in favour of applicant	18	
Number of ballots marked in favour of Canadian Longyear Shop Employees Association	25	

APPLICATIONS FOR CERTIFICATION WITHDRAWN DURING DECEMBER 1962

2225-61-R: Lumber and Sawmill Workers' Union, Local 2693 of the United Brotherhood of Carpenters and Joiners of America (Applicant) v. Maurice Lapointe (Respondent).

Unit: "all employees of the respondent in its woods operation in the Rae Lake area described in License to cut Crown timber #D 641 and in the Seine River area described in License to cut Crown timber #D 1484 and in the Quetico Park area described in Licenses to cut Crown timber #D 1509 and #D 1848, save and except foremen, persons above the rank of foreman, office and sales staff, scalers and tallymen." (2 employees in the unit).

4392-62-R: Laundry, Dry Cleaning & Dye House Workers' International Union, Local 351 (Applicant) v. New Method Laundry Co. Ltd. (Respondent). (154 employees).

4818-62-R: Local Union 1487, United Brotherhood of Carpenters and Joiners of America, affiliated with the Carpenters' District Council of Toronto and Vicinity (Applicant) v. McNamara Marine Ltd. (Respondent). (4 employees).

4929-62-R: International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.), (Applicant) v. Chrysler Corporation of Canada Limited (Respondent). (505 employees).

4976-62-R: Sheet Metal Workers' International Association, Local Union 269 (Applicant) v. Metalbestos Manufacturing Co. (Respondent). (43 employees).

5144-62-R: Milk and Bread Drivers, Dairy Employees, Caterers and Allied Employees Local Union No. 647 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Canada Bread Company Limited (Respondent). (2 employees).

9637-55: United Steelworkers of America (Applicant) v. Continental Can Company of Canada Limited (Toronto) (Respondent). (3 employees).

APPLICATIONS FOR TERMINATION DISPOSED OF DURING DECEMBER 1962

3145-61-R: Stork Diaper Service Limited (Applicant) v. Warehousemen and Miscellaneous Drivers' Union Local 419 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America (Respondent) (GRANTED) (14 employees).

(Re: Stork Diaper Service Limited,
Toronto, Ontario)

The Board endorsed the Record as follows:

"After the Board had directed that a representation vote be taken in this matter, counsel for the applicant notified the Board that his client had discontinued its trucking operation, had disposed of its vehicles and sub-contracted its delivery service to a delivery service company, had dismissed permanently all of the employees in the bargaining unit at Toronto, and had no intention, at any time, of re-opening the delivery department of its business. This information was communicated to the respondent. The parties have indicated to the Board that in the circumstances it is impossible to proceed with the representation vote. This proceeding is therefore terminated, but without prejudice to the right of either party to apply to the Board to reconsider this decision should the applicant, at any time, have employees in the bargaining unit affected by this application."

4632-62-R: Employees of New American Hotel (Applicant) v. Hotel & Restaurant Employees & International Union Local 412 Sault Ste. Marie, Ont. (Respondent). (GRANTED). (4 employees).

(Re: New American Hotel,
Sault Ste. Marie, Ontario).

Number of names on eligibility list		4
Number of ballots cast	4	
Number of ballots marked in favour of respondent	0	
Number of ballots marked as opposed to respondent	4	

4061-62-R: Office employees of Dunham-Bush (Canada) Limited
(Applicant) v. Office Employees International Union Local 131
(Respondent). (GRANTED). (24 employees).

(Re: Dunham-Bush (Canada) Limited,
Weston, Ontario).

Number of names on revised eligibility list		23
Number of ballots cast	23	
Number of ballots marked in favour or respondent	10	
Number of ballots marked as opposed to respondent	13	

4681-62-R: Cleve Way (Applicant) v. Warehouseman & Miscellaneous
Drivers' Union Local 419 affiliated with the International
Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers
of America (Respondent) v. Gamble Robinson Limited (Intervener).
(GRANTED) (9 employees).

(Re: Gamble Robinson Limited,
North Bay, Ontario).

Number of names on eligibility list		9
Number of ballots cast	9	
Number of ballots marked in favour of respondent	2	
Number of ballots marked as opposed to respondent	7	

4912-62-R: (Miss) Angela Carson (Applicant) v. Local Union 339
of the International Brotherhood of Electrical Workers
(Respondent). (GRANTED). (12 employees).

(Re: The Hydro-Electric Commission of the
City of Fort William,
Fort William, Ontario).

Number of names on eligibility list		12
Number of ballots cast	12	
Number of ballots marked in favour of respondent	3	
Number of ballots marked as opposed to respondent	9	

4980-62-R: Ross E. Fox (Applicant) v. International Woodworkers of America (Respondent). (DISMISSED). (10 employees).

(Re: The Oliver Lumber Co.,
Toronto, Ontario).

The Board endorsed the Record as follows:

"Application under section 45 of The Labour Relations Act for a declaration terminating bargaining rights. At the hearing the applicant informed the Board that he was unable to testify, and was not producing any witness to testify, in respect of the matters which must be established in order to entitle an applicant to relief under section 45. The solicitor for the employer requested leave of the Board to adduce evidence in respect of such matters and, the Board having reserved its decision on his request, he then withdrew it. Since the applicant has adduced no evidence in respect of his application, the application is dismissed."

5035-62-R: Louis Lercher (Applicant) v. Retail Store Employees Union Local 506 chartered by the Retail Clerks International Association (Respondent). (DISMISSED). (3 employees).

(Re: Fairway Store,
Sioux Lookout, Ontario).

5072-62-R: Moir Construction Company Limited (Applicant) v. International Hod Carriers' Building and Common Labourers' Union of America, Local 837, Hamilton, Ontario. (Respondent). (GRANTED). (2 employees).

(Re: Moir Construction Company Limited,
St. Catharines, Ontario).

13698-57: Jaromir Nemec (Applicant) v. Local 1505 Atikokan Canadian Labour Congress (Respondent). (GRANTED). (7 employees).

(Re: Atikokan Printing Limited,
Atikokan, Ontario).

The Board endorsed the Record as follows:

"The Board has been informed that the charter of the respondent union has been returned to the Canadian Labour Congress, the chartering authority. The respondent has therefore ceased to exist as a trade union and its right to represent the employees of Atikokan Printing Limited for whom it was therefore the bargaining agent has thereby been terminated. This proceeding is accordingly terminated."

20557-60: Antonius Van Der Eerden, Roberta McCallum, Ella Dowdell and others (Applicants) v. Textile Workers' Union of America, CLC, AFL - CIO (Respondent). (146 employees). (GRANTED). (146 employees).

(Re: The Circle Bar Knitting Company Limited, Kincardine, Ontario).

A vote was directed on November 13, 1962 and Board Member D.B. Archer dissented and said:

"I dissent. I find that Mrs. H.M. Needham exercised managerial authority and, since she was instrumental in originating and circulating the petition, I would have given no weight to the petition and would have dismissed the application."

On December 6, 1962 the Board further endorsed the Record as follows:

"After the Board had directed that a representation vote be taken in this matter, counsel for the employer notified the Board that his client had discontinued its operations at Kincardine, had already sold most of its assets, was attempting to sell the rest of its assets and that there was no likelihood of its resuming operations in Kincardine. This information was communicated to counsel for the applicant and for the respondent and they have indicated to the Board their view that in the circumstances it is impossible to proceed with the representation vote. This proceeding is therefore terminated, but without prejudice to the rights of any of the parties to apply to the Board to reconsider this decision should the employer resume operations in Kincardine."

APPLICATION FOR DECLARATION CONCERNING STATUS OF SUCCESSOR

TRADE UNION DISPOSED OF DURING DECEMBER 1962

2679-61-R: International Chemical Workers Union A.F. of L. C.I.O. C.L.C. (Applicant) v. Pilkington Brothers (Canada) Limited (Respondent) v. Canadian Glassworkers Union (Predecessor Trade Union). (WITHDRAWN).

APPLICATIONS UNDER SECTION 34(5) OF THE ACT DISPOSED OF
DURING DECEMBER 1962

4422-62-M: Operative Plasterers' and Cement Masons' International Association of the United States and Canada Local 117-C v. J. Sturino Construction Company v. Toronto and District Concrete and Drainage Contractors' Association.

(SEE INDEXED ENDORSEMENT PAGE 382)

4560-62-M: Nick Sesteto, Columbia Drain & Concrete, 59 Palmerston Ave., Toronto, Ont. (Applicant) v. Operative Plasterers' and Cement Masons' International Association of the United States and Canada, Local 117-C. (Respondent).

The Board endorsed the Record as follows:

"For the same and like reasons as given by the Board in the J. Sturino Construction Company Case, Board File No. 4422-62-M, our finding on this reference is as follows:-

- (1) That Nick Sesteto and Tony Sesteto, carrying on business under the firm name and style of Columbia Drain & Concrete, are not bound by the collective agreement of March 2nd, 1962, made between the Toronto and District Concrete and Drainage Contractors' Association and the Operative Plasterers and Cement Masons International Association of the United States and Canada.
- (2) That Nick Sesteto and Tony Sesteto, carrying on business under the firm name and style of Columbia Drain & Concrete, were bound at least until September 15th, 1962, by a "like collective agreement" as and to the effect provided in section 38 (1) of the Act to that made between the United Concrete and Drain Contractors' Association and the said union, effective September 15th, 1961."

Board Member G. Russell Harvey dissented and said:

"For the same and like reasons given by me in the J. Sturino Construction Company Case, Board File No. 4422-62-M, I dissent: I would have found that Nick Sesteto and Tony Sesteto, carrying on business under the firm name and style of Columbia Drain & Concrete, are bound by the collective agreement on March 2nd, 1962, made between the Toronto and District Concrete and Drainage Contractors' Association and the Operative Plasterers and Cement Masons International Association of the United States and Canada."

4559-62-M: Tom Bifolk & Son, (Applicant) v. Cement Masons' International Association of the United States and Canada, Local 117-C (Respondent).

The Board endorsed the Record as follows:

"For the same and like reasons as given by the Board in the J. Sturino Construction Company Case, Board File No. 4422-62-M, our finding on this reference is as follows:-

- (1) That Tom Bifolk & Son are not bound by the collective agreement of March 2nd, 1962, made between the Toronto and District Concrete and Drainage Contractors' Association and the Operative Plasterers and Cement Masons International Association of the United States and Canada.
- (2) That Tom Bifolk & Son were bound at least until September 15th, 1962, by a "like collective agreement" as and to the effect provided in section 38 (1) of the Act to that made between the United Concrete and Drain Contractors' Association and the said union, effective September 15th, 1961."

Board Member G. Russell Harvey dissented and said:

"For the same and like reasons given by me in the J. Sturino Construction Company Case, Board File No. 4422-62-M, I dissent; I would have found that Tom Bifolk & Son are bound by the collective agreement on March 2nd, 1962, made between the Toronto and District Concrete and Drainage Contractors' Association and the Operative Plasterers and Cement Masons International Association of the United States and Canada."

APPLICATION FOR DECLARATION THAT LOCKOUT UNLAWFUL DISPOSED
OF DURING DECEMBER 1962

4604-62-U: United Electrical, Radio and Machine Workers, of America, (UE) (Applicant) v. Trane Company of Canada, Limited (Respondent). (DISMISSED).

The Board endorsed the Record as follows:

"Despite the representations of counsel for the respondent company, we are of the opinion that this matter should be dealt with in accordance with the principles enunciated in the Ball Brothers Limited Case, (1957), C.C.H. Canadian Labour Law Reporter,

Transfer Binder 1954-59 116,099.

After considering the representations of the parties we find that the applicant has failed to establish that either of the two exceptions set out in the above case, namely, where the employer has called a number of unlawful lockouts as part of a general pattern for gaining its objectives in defiance of the law or, where the trade union has a reasonable fear that the employment of the employees will again be interrupted in a similar fashion, are applicable to the present case. It is clear that all employees were back at work before the matter came on for hearing before this Board.

Accordingly, assuming, but without in any way deciding that the interruption of work in the present case constituted a lock-out, that the lock-out was called by the respondent company and that the lock-out was unlawful, this is not a case in which the Board should issue a declaration under section 68 of The Labour Relations Act.

In reaching this conclusion the Board wishes to emphasize that it is not making any decision on the merits of the case. We emphasize this so that there may be no misunderstanding of the position of the Board in the event that other proceedings under the collective agreement are taken by either party.

However, we cannot refrain from pointing out that on the evidence we heard (and we did not hear evidence with respect to the actions of all employees or of the respondent's actions respecting all employees by any means) inferences might well have been drawn that not all employees conducted themselves in the same fashion and the respondent may have overlooked this fact in its actions respecting the employees. Because we are not called on to deal with the merits we do not find it necessary to decide what effect these factors might have had in the circumstances of this case.

The application is dismissed."

APPLICATIONS FOR CONSENT TO PROSECUTE DISPOSED OF DURING

DECEMBER 1962

4028-62-U: George Beange & Charles Beange, carrying on business under the firm name and style of G & C Cartage (Applicant) v. George Vousdan, et al (Respondents).
(WITHDRAWN).

4572-62-U: Amalgamated Clothing Workers of America (Applicant)
v. Deacon Brothers Sportswear Limited (Respondent).

The Board endorsed the Record as follows:

1. "This is an application for consent to institute a prosecution of the respondent for an alleged offence under section 12 of The Labour Relations Act in that it is alleged the respondent did on about August 14th, 1962 refuse to bargain and make every reasonable effort to make a collective agreement with the respondent.
2. The applicant was certified as bargaining agent for certain employees of the respondent in August, 1960. Following certification, conciliation services were granted to the parties and the conciliation Board made its report in January, 1961. The recommendations of the conciliation Board which were acceptable to the respondent were not acceptable to the applicant and no conciliation agreement was entered into between the parties.
3. Following the report of the conciliation Board, the applicant and the respondent again met on or about February 22nd, 1962, however at the request of the respondent and with the consent of the applicant, no bargaining took place at that time.
4. About the end of July, 1962, the applicant contacted the respondent and arranged a meeting with the respondent for the purpose of bargaining for a collective agreement, and this meeting was held on the premises of the respondent on or about August 14th, 1962.
5. The applicant at the meeting, presented a proposed collective agreement to the respondent which was in substantially the same form as the applicant's proposals which were dealt with by the conciliation Board, except that the wage increase proposed was changed from an hourly increase to a percentage increase. In addition, the applicant had inserted two new clauses, one being a union label agreement, the other a new union security clause.
6. The respondent took the position that the new proposals were not only substantially the same as the applicant's original proposals, but in addition the applicant was now asking the respondent to agree to two new demands. The respondent advised the

applicant that due to the fact that it had not significantly altered its original demands but on the contrary was seeking agreement to a harsher collective agreement from the company point of view, the parties would now be wasting one another's time by dealing with the proposals one by one because they had already done this before the conciliation Board without success. The applicant did not alter the proposed agreement which it submitted at this meeting and the respondent refused to discuss the matter further.

7. After the discussion of the applicant's collective agreement had ended, the respondent expressed the opinion that it did not believe that the applicant had the support of the respondent's employees. The applicant was unable to cause the respondent to indicate how the applicant could satisfy the respondent that it did in effect enjoy the support of the employees of the respondent for whom it was certified as bargaining agent. As the meeting broke up, the parties shook hands and as they said good-bye, the president of the company said, "we will see you again".

8. Having regard for the decision of the Board in the New Method Laundry and Dry Cleaners Case, C.C.H. Canadian Labour Law Reporter, Transfer Binder 1955-59, ¶16,059, we find that the applicant has failed to satisfy the requirement enunciated in that case, that following the conciliation process, the applicant failed to make significant concessions in its proposed collective agreement.

9. We further find that because the applicant failed to make significant concessions in its proposed collective agreement, the respondent at the meeting of August 14th, 1962, refused to continue to bargain, and it was only after the bargaining had ended that the respondent challenged the representation of its employees by the applicant and we find that this challenge had no bearing on the refusal to bargain as the bargaining had ceased at the time the challenge was made. In addition, from the conduct of the parties at the end of the meeting, we find that the parties had left the door open for further meetings.

10. Accordingly, we find that the applicant was the author of its own misfortune in this matter, and the refusal of the respondent to continue to

bargain in the instant case was not unreasonable or in bad faith, and therefore does not contravene the provisions of section 12 of the Act.

11. The application is therefore dismissed.

Board Member G. Russell Harvey dissented and said:

"I dissent.

At this time I cannot agree with the Board's requirements in the New Method Laundry and Dry Cleaners case. This is a one-sided restriction and is an unjustified qualification of the bargaining rights not contemplated in the legislation.

The respondent's belief the union did not have the support of employees is a significant consideration when estimating good faith in bargaining.

There has been no clear definition of good faith in bargaining. If an employer believes the certified union has lost employee support and seeks through delays, or a refusal to submit counter-proposals for a settlement or in other ways fails to make every reasonable effort, I would find a sufficient absence of good faith in bargaining and would grant leave for such failure.

I so find in this case."

4573-62-U: Amalgamated Clothing Workers of America (Applicant)
v. Deacon Brothers Sportswear Limited (Respondent).
(GRANTED).

The Board endorsed the Record as follows:

"This is an application for consent to institute a prosecution of the respondent for interference with the representation of employees by a trade union contrary to section 48 of The Labour Relations Act.

The evidence adduced by the applicant relates to all the essential ingredients of an offence under section 48 of the Act, however, the facts on which the applicant relies took place on or about the first week of September, 1962, whereas in its application the applicant alleged that the date of commencement of the alleged offence was on or about July 31st, 1962.

The respondent did not ask for particulars of the alleged offence and at the hearing did not object to evidence being adduced about events which took place during the first week of September, 1962, on which the applicant was basing its allegation that an offence under section 48 of the Act had been committed. In addition, the respondent through its witness, adduced evidence relating to the events of the first week of September, 1962 in an attempt to rebut the applicant's evidence.

The Board is satisfied, in the absence of any objection from the respondent, that the respondent was not taken by surprise and was prepared to deal with the events which took place during the first week of September, 1962 relating to the alleged offence under section 48 of the Act.

The Board therefore consents to the institution of a prosecution against the respondent for the following offence alleged to have been committed:

That the said respondent did contravene section 48 of The Labour Relations Act in that on or about the first week of September, 1962, it did interfere with the representation of employees by a trade union.

The appropriate documents will issue."

Board Member Morris C. Hay, Q.C. dissented and said:

"I dissent. Inasmuch as there was no evidence before the Board in this matter I would have dismissed the application.

This is an application for consent to prosecute. The applicant alleges the following offence:

"Interference with the representation of employees by a trade union, contrary to section 48 of The Labour Relations Act" in that "on or about July 31st, 1962, one James Allen, an executive officer of the respondent, requested V. Ferguson, a member of the applicant, to get certain female employees to sign a document in support of an Application for Termination of Bargaining Rights" (emphasis added).

The Board's policy in these matters is well established and its views clearly expressed in its decision in Johnson, Perini, Kiewitt and G Gallagher Case, Board file no. 1485-61-U, wherein it is stated:

"The Board is a quasi-judicial body and must proceed on the evidence adduced at the hearing. It has been the policy of this Board for many years to require an applicant to establish a prima facie case for all the essential ingredients of an offence alleged to have been committed" (emphasis added)

The evidence adduced by the applicant in support of its application is based entirely upon a conversation between James Allen and V. Ferguson, which conversation the said V. Ferguson stated on oath took place in the early part of September, 1962, some five weeks or more after the date of the alleged offence as specified in the application. The applicant who was represented by counsel, did not seek, either before or at the hearing, to amend its application in respect of the date of the alleged offence. Accordingly there was no evidence before the Board relating to any offence having taken place "on or about July 31st, 1962" not did the evidence adduced relate to any matter of which the Board was seised.

The fact that the respondent did not object to the applicant adducing evidence which did not relate to the matter before the Board cannot, in my respectful opinion, clothe it with evidentiary value, not in the absence of a request by the applicant to amend its application confer on the Board jurisdiction to amend the application so as to bring the evidence within the matter before it.

The applicant thus having failed to establish a prima facie case I would have dismissed the application."

4575-62-U: Amalgamated Clothing Workers of America (Applicant)
v. Deacon Brothers Sportswear Limited (Respondent)
(DISMISSED).

The Board endorsed the Record as follows:

"This is an application for consent to institute a prosecution of the respondent for seeking by threatening to shut down its operations to compel its employees to cease to be members of the applicant contrary to section 50 (c) of The Labour Relations Act.

The applicant stated in its application that the material facts upon which the applicant intends to rely as establishing the offence are as follows:

Fred Deacon, president of the respondent informed some employees and caused others to be informed that the respondent would close its doors if the employees supported the applicant.

The evidence adduced by the applicant in support of this application was to the effect that approximately fifteen minutes after a management meeting was held, which was attended by among others a foreman, the foreman stated to an employee that "the plant would not be the same if the union came in, and if it ever came to that, Deacon would close the doors".

There was no evidence that Mr. Deacon caused the foreman or any other person to make such a statement and there was no evidence that Mr. Deacon made that statement or any similar statement to anyone.

Mr. Deacon in his evidence stated that on the advice of his solicitor, he had specifically warned his management personnel not to discuss the union with any of the respondent's employees.

The fact that it was well known that the applicant union had been certified as bargaining agent for certain employees of the respondent for some considerable time and therefore it was solely within the control of management whether or not a collective agreement would be signed, we are of opinion that in the absence of any direct evidence connecting Mr. Deacon with the statement made by the foreman, the statement made by the foreman can be construed as an expression of his own personal opinion rather than any other construction which might be attached to it.

The respondent argued that it was only prepared to meet the allegation contained in the applicant's application and that the evidence did not support this allegation.

The respondent further argued that although the evidence in this case might support a new application, it was not prepared to meet this evidence at the hearing in this matter for the first time, and such evidence does not support the

allegation contained in the application. The respondent is not prepared to meet the evidence that one of its foremen said something which the applicant now alleges contravenes the Act.

Having regard to all the evidence and the representations of the parties, we find that the applicant has failed to satisfy the onus resting upon it to establish an essential ingredient of the offence alleged to have been committed under section 50 (c) of The Labour Relations Act; namely that Fred Deacon, president of the respondent, informed some employees and caused others to be informed that the respondent would close its doors if the employees supported the applicant.

The application is therefore dismissed."

Board Member G. Russell Harvey dissented and said:

"I dissent.

Under the circumstances the complainant is entitled to make the reasonable assumption that the statement of the foreman represented the instruction of Mr. Deacon.

If in practice employees were to question the instructions or statements of foremen, particularly relating to announcements of directives on company policy, utter chaos would follow.

It is sufficient for the exercise of rights under this legislation that a management person informed the complainant that Mr. Deacon would close the doors if the employees supported the applicant.

In my view, the applicant would not be required to prove Mr. Deacon made this statement but rather that it was held out to be a statement by a representative of management.

The Board has consistently held that the act of a foreman, even on his own initiative, is the act of a respondent company.

The substance of the complaint is the threat to close the door. The employees had no reason to believe Mr. Deacon did not cause this statement to be made, however the effect on them could be no less damaging if in fact the foreman misrepresented Mr. Deacon's instruction.

I would grant leave on the basis the threat was made."

4576-62-U: Amalgamated Clothing Workers of America (Applicant)
v. Deacon Brothers Sportswear Limited (Respondent).
(DISMISSED).

The Board endorsed the Record as follows:

"This is an application for consent to institute a prosecution of the respondent for an alleged offence under The Labour Relations Act.

The evidence in support of this application was to the effect that an employees of the respondent was relieved of his duty of opening the respondent's mail because the respondent was on the bargaining committee of the applicant. No other term or condition of the said employee's employment was altered and the employee suffered no change in wages.

The respondent stated that its reason for not permitting the employee to open the respondent's mail was due to the fact that the employee had access to certain confidential mail which the respondent felt might be used to its detriment in its relations with the applicant.

The Board finds on the basis of the evidence before it that the applicant has failed to satisfy the onus resting upon it to establish that an offence may have been committed under section 50 (a) of The Labour Relations Act, namely that the respondent discriminated against an employee in regard to his employment because the employee was a member of the applicant.

This application is therefore dismissed."

APPLICATIONS UNDER SECTION 65 DISPOSED OF DURING DECEMBER 1962

3696-62-R: Laundry, Dry Cleaning and Dye House Workers'
International Union (Complainant) v. Baby Valet Diaper Service
(Respondent). (WITHDRAWN).

4405-62-U: Bakery & Confectionery Workers International Union
of America, Local 181 (Complainant) v. Crupi Bros. Bakery Ltd.
Toronto (Respondent).

The Board endorsed the Record as follows:

"In accordance with the representations of the parties and the consent minutes of settlement filed, the Board makes the following determination of this complaint and of the action to be taken by the respondent:

1. The respondent shall accept the return to work of each of the following persons, namely, Angelo Bitti, Pietro Bitti, Leonardo Santino, Matteo Santino, Bernardino Divona and Antonio Rasso, at the rate of one person per week commencing Monday, December 3rd, 1962, and on each successive Monday thereafter, so that by Monday January 7th, 1963, all these persons shall have been reinstated.
2. Each of the persons whose names appear hereunder shall forthwith receive the sums set forth opposite their respective names to compensate for their lost earnings.

Oswaldo Giusfredi.....	\$78.12
Antonio Rasso.....	\$34.37
Pietro Bitti.....	\$67.50
Leonardo Santino.....	\$32.06
Bernardino Divona.....	\$55.02
Matteo Santino.....	\$20.41
Angelo Bitti.....	\$18.32

\$305.80

4510-62-U: Lumber & Sawmill Workers Unions, Local 2537
(Complainant) v. Chapleau Lumber Company Ltd. (Respondent).
(DISMISSED).

The Board endorsed the Record as follows:

"On the basis of all the evidence before it, the Board is not satisfied that Bruno Paradis and Rodolphe Janveux were discharged contrary to The Labour Relations Act.

The complaint is therefore dismissed."

4605-62-U: International Woodworkers of America (Complainant)
v. Beauty-Wood Manufacturing Limited (Respondent).
(WITHDRAWN).

4623-62-U: International Woodworkers of America (Complainant)
v. Quality Plywood & Veneer Company Limited (Respondent).
(WITHDRAWN).

4657-62-U: Local Union 633 of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO (Complainant) v. London Food City (London, Ontario) (Respondent).

The Board endorsed the Record as follows:

"The complainant having requested leave to withdraw the complaint at the hearing, the Board following its usual practice dismisses the complaint in this matter."

4817-62-U: Local Union 1487, United Brotherhood of Carpenters and Joiners of America, affiliated with the Carpenters' District Council of Toronto and vicinity (Complainant) v. McNamara Marine Ltd. (Respondent). (WITHDRAWN).

4902-62-U: United Steelworkers of America (Complainant) v. Noront Steel Construction Company Limited (Respondent). (WITHDRAWN).

4985-62-U: Operative Plasterers' and Cement Masons' International Association of the United States and Canada (Complainant) v. Rayner Construction Limited (Respondent). (WITHDRAWN).

5020-62-U: International Union of Electrical, Radio & Machine Workers, AFL-CIO-CLC (Complainant) v. Generator & Electric Co. Ltd. (Respondent) (WITHDRAWN).

5022-62-U: International Union of Electrical, Radio & Machine Workers, AFL-CIO-CLC (Complainant) v. Generator & Electric Co. Ltd. (Respondent). (WITHDRAWN).

5023-62-U: International Union of Electrical, Radio & Machine Workers, AFL-CIO-CLC (Complainant) v. Generator & Electric Co. Ltd. (Respondent). (WITHDRAWN).

5025-62-U: International Union of Electrical, Radio & Machine Workers, AFL-CIO-CLC (Complainant) v. Generator & Electric Co. Ltd. (Respondent).

The Board endorsed the Record as follows:

"On the basis of the evidence presently before the Board, we find that such evidence does not warrant further inquiry into this complaint by means of a hearing by the Board.

The complaint is therefore dismissed."

5048-62-U: Fred Farkas, James Labadi and Walter Okis (Complainants) v. Heist Industrial Services (Respondent).

The Board endorsed the Record as follows:

"For the reasons given in writing, this complaint is dismissed."

5087-62-U: Edward Johnson (Complainant) v. Ninnis Cartage (Respondent).

The Board endorsed the Record as follows:

"On the basis of all the evidence before the Board, we are of the opinion that there is no reason to inquire further into this complaint by means of a hearing by the Board.

The complaint is therefore dismissed."

CERTIFICATION INDEXED ENDORSEMENTS

964-61-R: Amalgamated Litho graphers of America, Local 12 (Applicant) v. Recording & Statistical Corporation Limited (Respondent). (GRANTED DECEMBER 1962).

On October 25, 1962 the Board endorsed the Record as follows:

"Application for certification.

The respondent company submits that the applicant union practices discrimination contrary to public statute and common law and that the Board is prohibited by section 10 of The Labour Relations Act from certifying the applicant union. In this connection, the respondent alleges that the applicant discriminates against persons because of their nationality and relies primarily on the following provisions of the applicant's constitution to establish its allegation:

Article II, (Membership), section 9:

Any candidate coming as an alien, provided said candidate has declared his intention of becoming a citizen of the United States or Canada, and produces proof of same, and provided such candidate prove himself to have been a member in good standing in the trade union of his respective country, shall pay the initiation fee prevailing in the Local in which he seeks membership. Such candidates may be given a permit card (same to be furnished by the International Office), to work a probationary period of four weeks and at not less than the minimum scale provided by the Local in whose jurisdiction he seeks

membership, and whose application shall be vouched for by at least two members in good standing.

Article XII, (Local Council and Its Duties),
section 12:

The Local Council shall perform the duties of an investigating committee upon all applications that may be presented to the Local. They shall meet at such time and place as decided upon, and notify the applicants to appear before the committee, and they shall examine into and report on all matters connected with the applicants for membership which may be referred to them and the following questions must be answered satisfactorily by the applicant:

.....
Are you a citizen?.....

The respondent says that, as a result of these provisions, citizenship is required for eligibility to membership in the applicant and that an alien must acquire a work permit, the requisite for which is a declaration of intention of becoming a citizen. The respondent says further that the practice of the applicant with respect to these matters is "completely irrelevant".

The applicant says that there is no express requirement of citizenship to be eligible for membership, that any provisions of the constitution that suggest such qualification for membership have not been applied in practice, and that the provisions on which the respondent relies are procedural with respect to eligibility and do not create a bar to candidates for membership on the basis of nationality.

In the Tange Case, (1961) C.C.H. Canadian Labour Law Reports ¶16,224, C.L.S. 76-797, where the issue was whether a trade union came within the mischief of section 10 of the Act, and in the Riddell Case, (1957) C.C.H. Canadian Labour Law Reports, Transfer Binder '55-'59, ¶16,085, C.L.S. 76-564, where the issue was whether a trade union was precluded, by a provision in its constitution, from granting membership to persons without citizenship, the Board held that the practice in this regard of the trade union concerned as well as its constitution shall be considered. Accordingly, we find that the practice of the applicant regard applicants for membership referred to as aliens,

evidence of which was adduced pursuant to the Board's decision of October 3rd, 1961, is relevant to the issue in the instant case.

The first ground on which the respondent relies is that an alien is disentitled to membership in the applicant because each candidate must answer satisfactorily the question: "Are you a citizen?". The evidence before the Board is that this question is not put to the candidates for membership. Frank H. Powell, vice-president of the applicant and chairman of its organizing committee, testified that "we never ask it" and "it's not important to us". Richard J. Clark, international representative of the Amalgamated Lithographers of America for Eastern Canada, testified that he had attended interviews of candidates by all locals in his jurisdiction and "has never heard the question about citizenship asked". The evidence of Hans Benny Jensen, who was admitted to membership before he had become a Canadian citizen, was that he was not questioned as to the country of which he was a citizen or about Canadian citizenship. On the evidence before us, it is also clear that the questioning of a candidate by the applicant's investigating committee is directed to his qualifications in the trade. Mr. Powell's evidence is that the union is interested in knowing how long a candidate has been in the trade and that the questioning is "pertinent to the trade" and is directed to the person's "ability as a tradesman". Mr. Clarke said that the questions are mainly in relation to the trade. Mr. Jensen stated that the investigating committee "asked me some questions about the trade" and that he showed them his "examination papers" from Denmark.

The second ground on which the respondent relies is that an alien must acquire a work permit before being admitted to membership and, in order to qualify for the work permit, he must have declared his intention of becoming a citizen. The evidence does not sustain this allegation. Mr. Powell testified that the applicant generally gives a "work permit" to a new member after his initiation and that a document, which he identified as a "temporary work permit given to new Canadians coming into the country for whom there's a job", was "many, many times given to new Canadians". Mr. Jensen's evidence is that he was not given a temporary work permit when he became a member of the applicant.

In so far as the matter of citizenship is concerned, the constitution of the applicant does not contain any provision that expressly requires citizenship as a condition of eligibility for membership and,

on the basis of all the evidence, we find that the applicant does not apply this qualification for membership in practice. Nor does the constitution contain any provision that expressly provides that aliens must be given work permits and, on the evidence, we find that the applicant in practice neither issues work permits to aliens only nor conditions their issue, in the case of an alien, upon a declaration of intention regarding citizenship. Accordingly, we find that the applicant does not discriminate against persons because of nationality and that the Board is not precluded by section 10 of The Labour Relations Act from certifying the applicant.

Of the additional grounds advanced by the respondent as a basis for urging that this application be dismissed, one is that sections 8 and 10 of Article II of the applicant's constitution are "contrary to the freedom of association guaranteed the individual by The Bill of Rights" (Statutes of Canada, 1960, c. 44). The other is that sections 8 and 9 of Article II bring the applicant within the principle enunciated by the Board in the Gaymer and Oultram Case, (1954) C.C.H. Canadian Labour Law Reports, Transfer Binder '49-'54, T17,073, C.L.S. 76-429, and in the Ottawa Citizen Case, (1954) C.C.H. Canadian Labour Law Reports, Transfer Binder '49-'54, T17,076, C.L.S. 76-431. Section 8 of Article II of the constitution prescribes a penalty for a member who "wins" office in the applicant "by misrepresenting himself in regard to membership in the Communist Party, any fascist group, or any totalitarian movement"; it imposes no restrictions on eligibility for membership. We have already found that there is no bar to membership in the applicant by reason of section 9 of Article II of the constitution as it is applied in practice. Section 10 of Article II does not deny membership in the applicant to any person but may restrict a member's freedom of action. Section 35 (2) of the Act clearly contemplates that such restrictions may be imposed and provides a remedy for persons detrimentally affected by such a restrictive clause; the section does not outlaw such provisions.

Accordingly, we find that sections of the constitution referred to above do not preclude membership in the applicant within the meaning of the principle established by the Gaymer and Oultram Case and the Ottawa Citizen Case. Nor does an alleged violation of a statute of Canada which

expressly extends "only to matters within the legislative authority of the Parliament of Canada" create, of itself, grounds for dismissal of an application under The Labour Relations Act of Ontario."

Board Member C.C. Young dissented and said:

"I dissent.

In view of the findings which I make later in this opinion I think it only proper that I should note at the outset that the Amalgamated Lithographers of America demonstrated to the Board in the course of this case that they had, as a consequence of the allegations in this case, and without delay, already begun prompt and thorough action to bring about the removal from their constitution of all of the provisions referring to citizenship, aliens etc.; and, also, that the officers of the union who gave evidence before the Board impressed me with the sincerity of their personal desire not to discriminate.

On the evidence before me, however, I must find that at the time of the application, the applicant union did discriminate against persons because of their nationality, and that this Board, by virtue of Section 10 of the Act, is accordingly prohibited from certifying the applicant union.

The sections of the constitution relied on by the respondent clearly establish, at the very least, that a distinction is to be drawn between nationals and aliens who apply for membership, and that different standards of eligibility for membership are to be used with respect to aliens.

Moreover, it is clear from the evidence of both Mr. Powell and Mr. Jensen that aliens are asked "where they are from" in the course of their examination by the local investigating committee; that the application for membership and the permanent records of the union show an applicant's country of origin; and that "new Canadians" have frequently been required to work under the temporary work permit contemplated in Article II Section 9.

For these reasons and because of the prohibition contained in Section 10 of the Act, I would find that the Board has no jurisdiction to certify the applicant on the facts as they stood at the date of this application."

On November 22, 1962, the Board further endorsed the Record in part as follows:

"The Board further finds that there were 18 employees of the respondent in the bargaining unit at the time the application was made. The applicant filed documentary evidence of membership on behalf of 10 employees in the bargaining unit. In the case of one employee this documentary evidence of membership consisted of an application for membership in the applicant, signed by the employee, and a 'Dues and Assessments Receipt Book' bearing the printed name of the employee. This Dues and Assessments Receipt Book was not signed by the employee and the payments indicated thereon were not certified correct by any officer of the applicant. Accordingly the documentary evidence of membership in respect of this employee does not meet the Board's requirements. In these circumstances the Board is satisfied that not less than forty-five per cent and not more than fifty-five per cent of the employees of the respondent in the bargaining unit, at the time the application was made, were members of the applicant at the material times fixed in accordance with The Labour Relations Act and the Board's Rules of Procedure."

3774-62-R: United Steelworkers of America (Applicant) v. International Harvester Company of Canada, Limited (Respondent) v. International Union of Operating Engineers, Local 700 (Intervener). (GRANTED DECEMBER 1962).

On December 6, 1962 the Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for all employees of the respondent at its systems and data services centre in Hamilton, with certain exceptions not here relevant.

The respondent takes the position that this group of employees is not an appropriate bargaining unit, but that all employees of the respondent at its general office in Hamilton, with certain exceptions not here relevant, would form an appropriate bargaining unit.

The applicant was certified in 1951 as bargaining agent for all office employees of the respondent at its Hamilton Works and this bargaining unit, at that time, included the Tabulating Department.

On April 11th, 1962, the respondent announced its intention to remove the tabulating department from the Hamilton Works office and to establish a separate data processing centre operating under the Hamilton general office.

The employees currently employed by the respondent in its systems and data services centre in Hamilton are substantially the same group of employees who were employed in the tabulating department of the Hamilton Works and they are all within the same job classifications as existed in the tabulating department.

The general office of the respondent is divided into some 22 departments and while the majority of these departments are housed in one building the system and data services centre is housed in a separate building and does not share space with any other department of the general office.

There is a very high degree of supervision within the new systems and data services centre, the senior employee being the data processing manager. The data processing manager reports directly to the treasurer of the company. The data processing manager was in charge of the tabulating department when it was part of the office of the Hamilton Works, and therefore the employees of the systems and data services centre look to the same person for supervision as they did while part of the office staff at the Hamilton Works.

The employees in the systems and data services centre are doing the same work now as they did while part of the Hamilton Works. However, it is anticipated that while about 80% of their present work is performed for the Hamilton Works and 20% for other groups in the company, two years from now when this new department reaches its full potential, only about 20% of its total volume, at that time, will be for the Hamilton Works and 80% will be for other groups in the company. The present staff of 27, which is about 25% of the total general office staff, will be increased to about 80 persons within the next two years.

Because of the highly technical nature of their work there is no interchange of employees in the systems and data services centre with other employees of the general office.

Having regard to the following factors: that the employees of the respondent in its systems and data services centre are substantially the same employees formerly employed by the respondent in its Hamilton Works tabulating department, that the employees in that department are physically separated from the rest of the general office, that there is a high degree of supervision within the new department, that the same persons supervise the employees as before, that the data processing manager reports directly to the treasurer of the respondent, that the same type of highly technical work is being performed in the same job classifications by substantially the same employees as before, that there is a lack of interchange between these employees and other employees in the general office, that there is a relatively large number of employees forming this group, and the fact that the employees as a group were formerly a part of a bargaining unit represented by the applicant for about eleven years, the Board finds that all employees of the respondent at its systems and data services centre in Hamilton save and except supervisors and persons above the rank of supervisor constitute a unit of employees of the respondent appropriate for collective bargaining."

Board Member H.F. Irwin dissented and said:

"I dissent:

The Board's certificate dated September 18, 1951, certified the United Steelworkers of America as bargaining agent for all office employees of the respondent at its Manufacturing Works at Hamilton, with certain exceptions not here relevant. This unit embraced various departments of the Manufacturing Works including the Hamilton Farm Equipment Works, The Hamilton Heavy Duty Equipment Works and the Hamilton Tractor Works. In fact, all the various departments of the Manufacturing Works' offices were included. Moreover, the collective agreement between the respondent and Local 4592, of the United Steel Workers of America covers all these departments.

Like the Manufacturing Works Office, the Hamilton General Office consists of various departments of which the Systems and Data Processing Department is one. There are a total of 107 employees and 27 of these were in the Systems and Data Processing Department on the date of the application.

In view of the bargaining unit defined in the Board's certificate in respect of the office employees of the Manufacturing Works at Hamilton and the history of collective bargaining in respect of these employees, I would have found that the appropriate bargaining unit in the instant case consisted of all office employees of the respondent in its General Office at Hamilton with certain exceptions not here relevant. As the evidence of membership filed by the applicant union discloses that less than 45% of the employees in this unit are members of the applicant, I would have dismissed the application."

4561-62-R: International Hod Carriers' Building and Common Labourers Union of America Local 1250 (AFL-CIO)(C.L.C.) (Applicant) v. Inter-Provincial Paving Company Limited (Respondent). (DISMISSED DECEMBER 1962).

On November 15, 1962 the Board endorsed the Record as follows:

"The respondent argues that its operations are local works or undertakings extending beyond the limits of the province within the meaning of section 92(10) (a) of The British North America Act, which reads:

92. In each Province the Legislature may exclusively make Laws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say -

10. Local Works and Undertakings other than such as are of the following classes:-

(a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province...

By section 91(29) of the same Act, the above exception is assigned to the exclusive jurisdiction of the Parliament of Canada. The respondent accordingly argues that the Board lacks jurisdiction.

In the Privy Council decision in Canadian Pacific Railway Company v. Attorney-General for British Columbia, (1950) A.C. 122, Lord Reid, with reference to section 92(10)(a), states, at p. 142:

Head (10)(a) begins by specifying four classes 'Lines of Steam or other Ships, Railways, Canals, Telegraphs', it then adds another class 'and other Works and Undertakings', and then concludes with

qualifying words, 'connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province'. Their Lordships have no doubt that these qualifying words apply not only to the words which immediately precede them 'other works and undertakings' - but also to each of the four classes specified at the beginning of the paragraph...The context shows that each of the four specified classes is intended to be a class of 'works and undertakings'. Head (10) begins by referring to local works and undertakings and the phrase which follows the four specified classes is 'other works and undertakings'. The latter part of the paragraph makes it clear that the object of the paragraph is to deal with means of interprovincial communication.

The Privy Council's interpretation of subsection 10(a) appears clearly to limit its scope to inter-provincial communications or at all events to the communication field extending beyond the limits of the province.

The case relied on by the respondent, namely, Tank Truck Transport Limited v. Grant Judd, (1960) 25 D.L.R. (2nd) 161, also deals with inter-provincial or extra-provincial communication. We have been unable to discover any decision concerning local works or undertakings denying provincial jurisdiction which does not pertain to inter-provincial or extra-provincial communications. The respondent's operations or, at all events, the work in which the employees involved in the present application are engaged, do not come within this field. Accordingly the Board finds that it is not debarred from entertaining the application by reason of section 91(29) of section 92(10)(a) of The British North America Act.

The respondent also made certain representations with respect to Labour Relations Board (NB) v. The Eastern Bakeries Ltd. Local Union 76 and Attorney-General of New Brunswick, [1961] 26 D.L.R. (2nd) 332. After careful consideration we are of the opinion that there is nothing in that decision which would make it incumbent on this Board to find it was without jurisdiction in the present case. Here the applicant is seeking bargaining rights for a group of employees of a Quebec company while working on a local work or undertaking within Ontario. The company, which incidentally maintains an address in Ottawa, divides its work between Hull and Ottawa.

Some of its employees are residents of Ontario, others of Quebec. While the men are hired in Quebec, and at times work in Quebec, there is no suggestion that the Board's certificate would or should apply to employees while working outside the Province of Ontario but only while employed on local works or undertakings within the Province.

On the other hand, as was made clear to the applicant at the hearing, the Board, in the circumstances of this case would not in its opinion be entitled to consider as appropriate for inclusion in the bargaining unit for purposes of the count, employees who were not working in Ottawa on the day of the making of the application.

Having regard to these considerations therefore, the Board finds that all construction labourers of the respondent employed in Ottawa and Eastview, and in the townships and municipalities immediately adjacent thereto, in Ontario, save and except non-working foremen and persons above the rank of non-working foreman, constitute a unit of employees of the respondent appropriate for collective bargaining."

4503-62-R: United Electrical, Radio and Machine Workers of America (UE) (Applicant) v. Tung-Sol of Canada Limited (Respondent). (GRANTED DECEMBER 1962).

The Board endorsed the Record as follows:

"The respondent submits that the application is premature. The respondent is engaged in manufacturing parts for the automotive trade. It commenced a pilot operation in December, 1961, which in due course employed 15 persons. Its main plant opened in July, 1962. The respondent plans a two-shift operation which, when the plant is in full production, will involve approximately 120 employees in the bargaining unit. A one-shift operation, in full production, would involve 75 employees. The applicant submitted evidence of membership which would warrant the Board ordering a vote in a bargaining unit consisting of as many as 77 persons. On September 11th, the date of the making of the application, there were 57 persons in the bargaining unit. Approximately seventy-five per cent of all classifications (which will eventually be employed in production) have been filled. While the respondent has contract commitments to customers which would involve the plant in a two-shift operation, because of difficulties in getting delivery of equipment, shaking it down and

training employees, the respondent, at the hearing, stated that it did not have a planned increase of personnel.

In all the circumstances of this case including the nature of the industry and the length of time already elapsed from the time the respondent first hired employees, we cannot agree that, on balancing the interests of the present employees to the right of collective bargaining with the right of future employees to select a bargaining agent of their own choice, we should have regard to the fact that the respondent intends employing a second shift. It is clear from the tests outlined in previous decisions of the Board that on the basis of a one-shift operation the Board would, at the very least, order a representation vote on the facts of this case. We must therefore find that the application is timely."

Board Member C.C. Young, dissented and said:

"I dissent. The evidence adduced before the Board satisfied me that in deciding to open this plant the respondent planned, as quickly as possible, to operate it on a two-shift basis in order to meet its commitments to customers. For this reason, I would have deferred the vote until a more representative number of employees was present."

4815-62-R: The Canadian Union of Operating Engineers (Applicant) v. Dominion Woolens & Worsteds (1959) Ltd. (Respondent) v. United Textile Workers of America - Local 347 (Intervener). (DISMISSED DECEMBER 1962).

The Board endorsed the Record as follows:

"The applicant has applied to be certified as bargaining agent for a unit of stationary engineers of the respondent and in so doing seeks to carve out a separate bargaining unit of stationary engineers from an industrial unit for which the intervener union is the existing bargaining agent.

The stationary engineers of the respondent have constituted an integral component of this industrial unit for approximately two years. The respondent was incorporated in June, 1959 and the respondent and the intervener were parties to a collective agreement since October, 1960. Therefore during the whole history (albeit short) of

collective bargaining on behalf of the employees of the respondent, the stationary engineers have been incorporated in the industrial unit represented by the intervener. During this period, the stationary engineers have enjoyed separate classifications and wage rates under the collective agreement and have been paid a higher rate than the production employees in the unit. They have never filed a grievance under the collective agreement and have attended meetings called by the intervener at which the collective agreements have been ratified. Further on the evidence it cannot be said that the intervener has been derelict in its duties as a collective bargaining agent for the stationary engineers or that any complaints respecting the quality of representation by the intervener have been made by the engineers.

Both the respondent employer and the intervener union opposed the application for certification by the applicant. They contend that the Board ought not to apply the provisions of section 6 (2) of The Labour Relations Act, but should find the unit requested by the applicant inappropriate for collective bargaining.

Having regard to the Board's decision in the Zephyr Textile Mills Ltd. Case, Board File # 4571-62-R and the cases therein referred to, and to all the circumstances of this case, including the nature of the respondent's business, we do not consider this to be an appropriate case for the application of section 6 (2) of the Act. We find that the unit requested by the applicant is not appropriate.

The application is therefore dismissed."

5028-62-R: United Brotherhood of Carpenters and Joiners of America, Local 1988 (Applicant) v. Welcon Limited (Respondent).
(GRANTED DECEMBER 1962).

The Board endorsed the Record as follows:

"In this case the applicant seeks a unit of carpenters and carpenters' apprentices in an area described as "in Perth and the 'area' of Local 1988." In support of its application the applicant filed five collective agreements, two of which described the area covered by the agreement as the "area" of local 1988, one as Perth plus fifty miles, one as Smith Falls plus thirty miles and the last as Smith Falls plus sixty miles. The "area" of local 1988 is not defined

in the two collective agreements referred to above and is not set out in the local's charter. The applicant claims that its jurisdiction extends half-way to a number of other municipalities wherein are located other locals of the same International Union. That jurisdictional claim does not appear to have been set out in any document or writing under the signature of an officer of the International. Even if it were, the "area" is not one which could be said to have any definite boundaries.

While the geographical jurisdiction of a particular local union may well be one of the factors which the Board will take into consideration in determining what is an appropriate "geographic area" within section 92 (1) of The Labour Relations Act, the onus is on the applicant to establish before the Board the extent of that jurisdiction. In the absence of that jurisdiction being spelled out in the charter of the local or in some document or writing approved by an official of the parent union this Board is unable to see how it can accept a bare assertion by a local that its jurisdiction extends over a certain "area". Particularly is this the case where the limits are so loosely defined as in the present case, and where there are other locals of the same union in the area. The collective agreements filed in this case indicate that the applicant local has no well defined jurisdictional "area" and, further, that there is no well established "area" pattern for collective bargaining. (See M. Sule Construction Ltd. file number 4890-62-R.).

APPLICATION FOR REVIEW OF DECISION OF BOARD

4728-62-R: The Employees of Lakeview Pure Milk Dairy Ltd Barrie Ontario (Applicant) v. Local 647 Teamsters Union 3199 Bathurst St Toronto (Respondent). (GRANTED).

(Re: Lakeview Pure Milk Dairy Ltd.,
Barrie, Ontario).

The Board endorsed the Record as follows:

"The applicant has applied under section 45 of The Labour Relations Act for a declaration that the respondent no longer represents the employees in the bargaining unit for whom it is the bargaining agent in this matter.

The respondent was certified as bargaining agent for all driver salesmen and tank truck drivers of Lakeview Pure Milk Dairy Ltd. at Barrie, save and except foremen and persons above the rank of foreman on the 18th day of July, 1962.

On the 16th day of July, 1962, the respondent served a notice to bargain on Lakeview Pure Milk Dairy Ltd.

The Board is satisfied that no bargaining has taken place between the respondent and Lakeview Pure Milk Dairy Ltd., and the respondent has failed to attempt to bargain with Lakeview Pure Milk Dairy Ltd. for more than 60 days from the giving of the notice to bargain and the Board has not granted a request for conciliation services.

In addition to the applicant's evidence that the respondent has allowed a period of more than 60 days to elapse from the date of its notice to bargain during which it has not sought to bargain, the applicant also tendered evidence (which was not required in an application under section 45 of the Act) in the form of a document signed by more than 50% of the employees of Lakeview Pure Milk Dairy Ltd. at a meeting held in the drivers' room of the company after working hours at which no member of management was present. The applicant states that the employees of the company had often used the drivers' room to hold meetings for other than company business without obtaining the permission of management and in this instance there is no evidence that management knew the meeting was to be held, nor had anyone obtained permission of management to hold the meeting.

In view of these circumstances, we find that this application was not inspired by management and did not in fact receive the support of management.

Having regard to all the evidence and the fact that the respondent did not reply to this application and did not attend the hearing of this application, the Board declares that the respondent no longer represents the employees of Lakeview Pure Milk Dairy Ltd. at Barrie for whom it has heretofore been the bargaining agent."

Board Member D.B. Archer dissented and said:

"I dissent. The evidence in this case is simple and straightforward and is undisputed. The applicant relies on signatures on a petition as evidence

of opposition to the union. All the signatures were obtained at a meeting especially called for this purpose. The meeting was held at 8 p.m. in the drivers' room at the Dairy. The Board has held on numerous occasions that evidence of union support or opposition obtained in this manner does not meet the Board's requirements of membership. I would therefore have dismissed the application."

SECTION 34(5) INDEXED ENDORSEMENT

4422-62-M: Operative Plasterers' and Cement Masons' International Association of the United States and Canada Local 117-C v. J. Sturino Construction Company v. Toronto and District Concrete and Drainage Contractors' Association.

The Board endorsed the Record as follows:

"The evidence establishes that J. Sturino, carrying on business under the firm name and style of J. Sturino Construction Company, became a member of an unincorporated contractors' association (hereinafter called the former association) known as The United Concrete and Drain Contractors Association, in August, 1960. He paid his dues for the month of August, 1960, and attended one meeting of the association held in the same month. After August, 1960, he neither paid dues nor attended any meetings nor did he otherwise participate in any activities of the association. We were told that this association in its inception at least was intended to be a provisional organization pending incorporation of an association known as The Toronto and District Concrete and Drainage Contractors Association (hereinafter called the incorporated association). We were also told that meetings were held by the former association to discuss and approve an application to the Provincial Secretary for the necessary letters patent constituting the organization as a chartered body. There is no evidence that Sturino attended any of these meetings.

Sometime after Sturino became a member of the United Concrete and Drain Contractors Association this association entered into a collective agreement on behalf of its members with the Operative Plasterers' and Cement Masons' International Association of the United States and Canada. This agreement was effective from September 15th, 1960, to the 15th of September, 1961, and contained the following clause relating to its renewal, amendment or termination,

- - Should either Party desire to change, add to, amend or terminate this Agreement, that Party agrees to give to the other Party written notice to that effect on or before the 30th day of November prior to the termination of this Agreement.

Provided that no such written notice is given by either Party, this Agreement shall remain in force from year to year.

While the Letters Patents were not produced in evidence, the testimony of the witnesses called by the union indicates that Letters Patent in the name of The Toronto and District Concrete Contractors' Association were issued on or about January 20th, 1961. It appears that all members of the former association, whether paid up or not, and including S. Sturino, were automatically, and without any formal affirmation or request on their part, treated as, and enrolled as members by the incorporated association. Also, for purposes of their membership standing, they were given credit for all dues paid by them to the former association. We were told that after these Letters Patent were issued, membership meetings were held at which a constitution was proposed and adopted for the incorporated association and also that the officers of the former association were re-elected as officers of the incorporated association. While notices of meetings held and of business transacted by both the former association and later by the incorporated association, were mailed to Sturino, and it is presumed that they were received by him in the ordinary course of mail, he did not, except as indicated above with respect to the former association, attend any meetings, or pay dues to, or in any way participate in, any of the activities of either the former association or the incorporated association. Further he did not inform either one of the associations or the union as to whether he was or was not accepting membership in the incorporated association. In other words he ignored completely all the correspondence received by him from both associations.

Following its incorporation in January, 1961, the incorporated association, on behalf of its members recognized, observed and considered itself bound by the terms of the agreement made with the former association. Also in accordance with the provisions of the duration clause quoted above, both the incorporated association and the union gave notice prior to June 15th, 1961, of their desire to bargain for the renewal of the agreement.

After a number of negotiation meetings, the incorporated association applied for and was granted conciliation services in November, 1961. A collective agreement was later entered into on March 2nd, 1962, between the incorporated association as party of the first part and the union as party of the second part. This agreement was made effective from February 28th, 1962, to February 28th, 1963.

The question as to whether J. Sturino, carrying on business as J. Sturino Construction Company, is bound by any collective agreement with the Operative Plasterers' and Cement Masons International Association of the United States and Canada was referred to the Board by the Minister of Labour under the provision of section 34 (5) of The Labour Relations Act.

In our view it is trite law that the incorporated association is a new legal entity separate and distinct from the former association. Assuming that the former association was, as we are told, a provisional association pending the formation of a chartered body, we are not persuaded that Sturino's acceptance of membership in it meant that he was also, therefore, accepting membership in whatever incorporated association would thereafter be formed. The former association had no constitution, nor, except that monthly dues were in the sum of \$10.00, was any evidence given relating to its rules of membership. The only evidence before us is that Sturino applied for and was accepted into membership in the former association. We fail to comprehend on the evidence in this case how Sturino could become a member of the new association solely by virtue of his membership in the former unincorporated association. In our opinion there is no evidence whatever that he did any act either before the incorporation of the present association or later which could reasonably be construed as an acceptance by him of membership in the incorporated association. On the contrary, the evidence before us clearly indicates that his actions and course of conduct was quite inconsistent with any desire on his part either to remain a member of the former association or to accept membership in the incorporated association. There is no evidence of any indication whether express or tacit, by Sturino to accept the obligations of membership in the incorporated association. Further, there is no evidence of any conduct on his part which could reasonably have induced the union to believe, to its prejudice, that he had accepted the obligations of membership in the new association. His enrollment as a member in the new association and the actions of that association in purporting to bargain on his behalf with the union, were entirely

without his assent or authority, express or implied, and cannot, therefore, be taken as binding upon him. It need hardly be said that a person does not become a member of an employers' association solely by the unilateral and unauthorized action of the association saying that he is a member. A fortiori, that person cannot be bound as a member by an agreement made by such an association with a trade union.

There is no doubt that as a member thereof Sturino was bound by the collective agreement entered into between the United Concrete and Drain Contractors Association and the Operative Plasterers and Cement Masons International Association of the United States and Canada effective September 15th, 1960, to September, 1961. The evidence indicates, however, that this association passed out of existence or became defunct on or shortly after the formation of the incorporated association in January, 1961. Section 38 (1) of The Labour Relations Act provides,

A collective agreement between an employers' organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon each person who was a member of the employers' organization at the time the agreement was entered into and on whose behalf the employers' organization bargained with the trade union or council of trade unions as if it was made between each of such persons and the trade union or council of trade unions, and, if any such person ceases to be a member of the employers' organization during the term of operation of the agreement, he shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions.

In our view, Struino ceased to be a member of the former association in circumstances envisaged by section 38 (1). Accordingly, for the remainder of the term of operation of the collective agreement, i.e. to September 15th, 1961, he would be deemed to have been a party to "a like agreement with the trade union". There is no suggestion from the evidence before us that any written notice was given by either Sturino to the union or by the union to Sturino pursuant to the termination provision of this agreement. In view of the positions taken by the parties, and the evidence with respect thereto, the inference is inescapable that no such written or any notice was in fact given.

In these circumstances we are constrained to find that "the like collective agreement" to which Sturino is deemed to be a party by virtue of section 38 (1) remained in force for at least another year from September 15th, 1961, to September 15th, 1962.

- (1) Our finding on this reference is, therefore, that J. Sturino, carrying on business under the firm name and style of J. Sturino Construction Company, is not bound by the collective agreement of March 2nd, 1962, made between the Toronto and District Concrete and Drainage Contractors' Association and the Operative Plasterers and Cement Masons International Association of the United States and Canada,
- (2) that J. Sturino, carrying on business under the firm name and style of J. Sturino Construction Company, was bound at least until September 15th, 1962, by a "like collective agreement" as and to the effect provided in section 38 (1) of the Act to that made between the United Concrete and Drain Contractors' Association and the said Union, effective September 15th, 1961."

Board Member G.R. Harvey dissented and said:

"I dissent: The respondent paid money for membership in an employers' association with knowledge that the association would seek incorporation in another agreed name.

In each stage of development and administration of the association the respondent was held out to be a member and treated as such by officers of the association.

The Board has no rules requiring evidence of membership in an employers' association, The Act, however, specifically requires a member to notify the union of resignation of membership or withdrawal of the association's authority to act on his behalf for the purpose of collective bargaining. Otherwise, he is bound by the agreement.

The respondent saw fit to ignore all correspondence from the association, particularly in relation to the notification of the terms of agreement with the union in which case he is bound by the current collective agreement."

REQUEST FOR RECONSIDERATION DENIED

3447-62-R: Welders, Public Garage Employees, Motor Mechanics and Allied Workers Local Union 847, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Pigott Motors (1961) Limited (Respondent).

The Board endorsed the Record as follows:

"For reasons given in writing the respondent's request for reconsideration is denied."

Board Member C.C. Young said:

"For my reasons given in writing I would not grant the respondent's request for reconsideration."

3698-62-R: The National Union of Public Employees (Applicant) v. The Corporation of the County of Victoria (Respondent).
(DISMISSED MAY 1962).

The Board endorsed the Record as follows:

"On May 29th, 1962, the Board dismissed the applicant's application for certification as bargaining agent for a bargaining unit of the respondent's jail employees. The reason for the dismissal of this application as it appears in the Board's written decision of May 29th, 1962, is to the effect that the respondent municipality had passed a by-law pursuant to section 89 of The Labour Relations Act declaring that this Act "does not apply to it in its relations with its employees or any of them".

The applicant seeks reconsideration of the Board's decision of May 29th, 1962, and states as its only ground therefor that the by-law in question is inoperative because it was not approved by the Minister of Reform Institutions pursuant to section 5 of The Penal and Reform Institutions Inspection Act.

At the hearing of the applicant's request for reconsideration, however, the respondent filed the by-law in question bearing the approval of the said Minister "insofar as it relates to a jail or lock-up".

It is manifest, therefore, that the applicant's objection to the by-law has been met. In these circumstances and apart from any other consideration, the applicant's request for reconsideration is dismissed."

SPECIAL ENDORSEMENT IN CONCILIATION APPLICATION DISPOSED OF

BY THE BOARD

3107-61-C: Warehousemen and Miscellaneous Drivers' Union Local 419, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Applicant) v. Stork Diaper Service Limited (Respondent). (TERMINATED DECEMBER 1962).

The Board endorsed the Record as follows:

"At the hearing the parties agreed that the disposition of this application be held in abeyance until the representation vote directed by the Board in File No. 3145-61-R has been completed. The record in File 3145-61-R has now been endorsed as follows:-

After the Board had directed that a representation vote be taken in this matter, counsel for the applicant notified the Board that his client had discontinued its trucking operation, had disposed of its vehicles and sub-contracted its delivery service to a delivery service company, had dismissed permanently all of the employees in the bargaining unit at Toronto, and had no intention, at any time, of re-opening the delivery department of its business. This information was communicated to the respondent. The parties having indicated to the Board that in the circumstances it is impossible to proceed with the representation vote. This proceeding is therefore terminated, but without prejudice to the right of either party to apply to the Board to reconsider this decision should the applicant, at any time, have employees in the bargaining unit affected by this application.

Having regard to the Board's decision in File 3145-61-R, this proceeding is also terminated but without prejudice to the right of either party to apply to the Board to reconsider its decision should the respondent, at any time, have employees in the bargaining unit affected by this application."

TRUSTEESHIP REPORT FILED

T14-61

United Steelworkers of America Local 4035
at London. Report filed under date of
December 19, 1962 by D.M. Storey, Legislative
Representative in respect of Local 4035
stated that the Local had been reorganized
and had elected officers and it was no longer
necessary for this unit to be under adminis-
tration.

PART 2

STATISTICAL TABLES

- | | |
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TABLE I

APPLICATIONS & COMPLAINTS TO THE ONTARIO LABOUR RELATIONS BOARD

	Dec. 1962	Number of applications filed 1st 9 months of fiscal year	
		62-63	61-62
I Certification	42	555	586
II Declaration Terminating Bargaining Rights	12	64	56
III Declaration of Successor Status	-	11	2
IV Conciliation Services	68	915	865
V Declaration that Strike Unlawful	-	26	34
VI Declaration that Lockout Unlawful	-	7	1
VII Consent to Prosecute	2	69	75
VIII Complaint of Unfair Practice in Employment (Section 65)	16	104	103
IX Miscellaneous	-	18	17
TOTAL	<u>140</u>	<u>1769</u>	<u>1739</u>

TABLE II

HEARINGS OF THE ONTARIO LABOUR RELATIONS BOARD

	Dec. 1962	Number 1st 9 months of fiscal year	
		62-63	61-62
Hearings & Continuation of Hearings by the Board	82	910	718

TABLE III
APPLICATIONS & COMPLAINTS DISPOSED OF BY THE ONTARIO LABOUR
RELATIONS BOARD BY MAJOR TYPES

	Dec. 1962	1st 9 months of fiscal yr. 62-63	61-62
I Certification	71	641	589
II Declaration Terminating Bargaining Rights	11	67	36
III Declaration of Successor Status	1	4	8
IV Consilistion Services	70	901	901
V Declaration that Strike Unlawful	-	26	35
VI Declaration that Lockout Unlawful	1	10	1
VII Consent to Prosecute	5	120	81
VIII Complaint of Unfair Practice in Employment (Section 65)	15	109	103
IX Miscellaneous	<u>3</u>	<u>13</u>	<u>15</u>
TOTAL	<u>177</u>	<u>1891</u>	<u>1769</u>

TABLE IV

APPLICATIONS DISPOSED OF BY THE ONTARIO LABOUR RELATIONS
BOARD BY TYPES AND BY DISPOSITION

Disposition	*Employees			*Employees		
	Dec. 1st 9 mos. fiscal yr			Nov. 1st 9 mos. fiscal yr		
	'62	62-63	61-62	'62	62-63	61-62

I Certification

Certified	42	424	370	1439	25944	10831
Dismissed	22	159	140	1340	10254	5603
Withdrawn	<u>7</u>	<u>58</u>	<u>79</u>	<u>713</u>	<u>2401</u>	<u>2277</u>
TOTAL	<u>71</u>	<u>641</u>	<u>589</u>	<u>3492</u>	<u>38599</u>	<u>18711</u>

II Termination of Bargaining Rights

Terminated	9	42	14	281	1305	337
Dismissed	2	17	20	13	470	526
Withdrawn	<u>-</u>	<u>8</u>	<u>2</u>	<u>-</u>	<u>233</u>	<u>64</u>
TOTAL	<u>11</u>	<u>67</u>	<u>36</u>	<u>294</u>	<u>2008</u>	<u>947</u>

*These figures refer to the number of employees directly affected and are based on the number of employees in the bargaining units at the time the applications for certification were filed with the Board. Totals for applications dismissed and withdrawn are approximate.

- S43 - APPLICATIONS DISPOSED OF BY
BOARD (continued)

	Number of appl'ns dis. of Dec. 1st 9 mos. fiscal yr.		
	<u>'62</u>	<u>62-63</u>	<u>61-62</u>
III <u>Conciliation Services*</u>			
Referred	63	804	848
Dismissed	4	20	12
Withdrawn	<u>3</u>	<u>77</u>	<u>41</u>
TOTAL	<u>70</u>	<u>901</u>	<u>901</u>
IV <u>Declaration that Strike Unlawful</u>			
Granted	-	6	5
Dismissed	-	7	2
Withdrawn	<u>-</u>	<u>13</u>	<u>28</u>
TOTAL	<u>-</u>	<u>26</u>	<u>35</u>
V <u>Declaration that Lockout Unlawful</u>			
Granted	-	1	-
Dismissed	1	6	1
Withdrawn	<u>-</u>	<u>2</u>	<u>-</u>
TOTAL	<u>1</u>	<u>9</u>	<u>1</u>
VI <u>Consent to Prosecute</u>			
Granted	-	17	16
Dismissed	4	12	10
Withdrawn	<u>1</u>	<u>91</u>	<u>55</u>
TOTAL	<u>5</u>	<u>120</u>	<u>81</u>

*Includes applications for conciliation services re unions
claiming successor status.

TABLE V

REPRESENTATION VOTES IN CERTIFICATION APPLICATIONS DISPOSED
OF BY THE BOARD

	Number of Votes		
Dec.	<u>1st 9 months of fiscal yr.</u>		
'62	62-63	61-62	
<u>*Certification After Vote</u>			
pre-hearing vote	2	30	41
post-hearing vote	6	23	31
ballots not counted	-	2	-
<u>Dismissed After Vote</u>			
pre-hearing vote	-	15	16
post-hearing vote	10	55	40
ballots not counted	-	1	5
TOTAL	<u>18</u>	<u>126</u>	<u>133</u>

*Includes applicant - intervener applications in which both applicant and intervener apply for a new unit and either applicant or intervener is certified.

TABLE VI

REPRESENTATION VOTES IN TERMINATION APPLICATIONS DISPOSED OF
BY THE BOARD

	Dec. '62	1st 9 months of fiscal yr.	
		62-63	61-62
*Respondent Union Successful	-	5	2
Respondent Union Unsuccessful	<u>4</u>	<u>18</u>	<u>13</u>
TOTAL	<u>4</u>	<u>23</u>	<u>15</u>

*In termination proceedings where a vote is taken, the applicant is a group of employees, or the employer; the incumbent union is thus the respondent.

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